BCSC Audit of the Investment Dealers Association

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BCSC Audit of the IDA December 2002

Executive Summary

The Capital Markets Division's audit of the Investment Dealers Association (IDA) Pacific District Office Enforcement Department covered the period from September 2000 to December 2002. The BCSC last audited this area in 2000. At that time, the IDA was experiencing significant changes resulting in an independent comprehensive national review of the Enforcement Department by Robert Chambers. The 2000 BCSC audit report recommended that a subsequent audit be conducted to review the impact of the Chambers and BCSC recommendations on enforcement results. The 2002 audit focused on Investigations and Prosecutions and was narrower in scope than the comprehensive audit conducted in 2000.

Overall, the IDA implemented a significant number of the previous recommendations to improve its effectiveness in meeting its regulatory responsibilities. Significant change has been accomplished with the implementation of new systems and the development of better processes for handling complaints and managing priorities. However, enforcement results have still lagged below historic levels particularly in corporate actions brought against firms. The most significant factors contributing to the lack of results appear to be key staff vacancies and file backlogs.

Background

In 2000, the BCSC conducted an audit of the IDA Pacific District's enforcement activities and made eighteen recommendations. The audit concluded that the IDA's ability to show substantive enforcement results at that time was limited as the IDA was in a state of turmoil. There were staff turnover problems and the Enforcement Division was undergoing a comprehensive national review by Robert Chambers of Asset Risk Advisory Inc.

The Chambers Report put forward forty-eight specific recommendations. Overall, it concluded that the IDA had sufficient authority to investigate its members except for three areas that required improvement:

1. Parties who must provide evidence
2. Relevance of documents
3. Settlements

The IDA established an implementation timeline and provided follow up to the Commission on its progress.

Purpose and Scope of the 2002 Audit

As both the Chambers Report and the 2000 BCSC Audit Report identified significant deficiencies and made numerous recommendations, a follow up audit was scheduled for 2002. The purpose of the 2002 BCSC audit was to confirm the implementation of the recommendations in both reports, and to review and assess the current status of the Enforcement Division's results.

Field work on the 2002 audit was conducted from approximately November 25, 2002 to December 20, 2002. The specific audit looked at the following:

- Review of IDA policy and procedures manuals
- Review of training manuals
- Interviews of staff members
- Review of a sample of files from Investigations and Prosecutions
- Review of the IDA's implementation of the Chambers Report recommendations
- Review of the IDA's implementation of the 2000 BCSC Audit recommendations

1. Results

Previous Audit Findings

The 2000 BCSC audit found that there was an improvement in enforcement results relative to the previous audit, however, given the IDA's increased jurisdiction, greater results were expected.

The Chambers Report concluded that the Enforcement Division had to change its strategy to align it with the IDA's strategy, which is to provide regulation that supports stability, prudence and honesty, as well as innovation and cost effectiveness among Members. Also, the IDA needs an effective communication policy to demonstrate to stakeholders the importance of the enforcement process. The objective is enhanced deterrence and optimal reputation of the Self Regulatory Organization (SRO).

Recommendations

- Adopt a strategy for the Enforcement Division. *(Chambers Recommendation # 9)*
- Make communications policies consistent across Canada and give Enforcement matters a higher priority by:
  - Issuing notices of hearing via the IDA website and media releases.
  - Providing statements of allegations (or a full summary of circumstances where appropriate) on the website and in media releases.
  - Posting settlement agreements on the website, and
  - Publishing enforcement statistics on the website or in an annual report. *(Chambers Recommendation # 38)*
- Improve enforcement results. Since the IDA increased its regulatory jurisdiction, greater enforcement results are expected. (BCSC Recommendation, not specifically numbered)

IDA Action Taken

IDA Action - Chambers Recommendation # 9
The Member Regulatory Oversight Committee (MROC) approved the IDA's strategy document in April 2002.

IDA Action - Chambers Recommendation # 38
The IDA has raised the profile of the Enforcement Department by devoting a section of its website to enforcement. The IDA website now lists notices of hearings and particulars, disciplinary decisions and settlement agreements.

Disciplinary Actions

The following chart summarizes Member Regulation actions from 1998 to 2002. See Appendix # 1 for more detailed information about the IDA's disciplinary actions.

Annual Summary of Disciplinary Actions
Member Regulation – Pacific District

Year	Member Regulation	
	IDA	Other SROs
1998	3	15
1999	5	13
2000	7	3
2001	9	2
2002	5	2

Notes

1. *Notices for the IDA, VSE, CDNX, and RS Inc. were examined.*
2. *CDNX and RS Inc. Notices dealing with infractions on the TSE or ASE were excluded.*

Assessment

In January 2000, the IDA assumed sole responsibility for Member Regulation over all IDA firms in the province. Prior to this date the jurisdiction was shared with the CDNX and its predecessor, the VSE.

The results by the IDA are not commensurate with the IDA's increased regulatory role. The volume of proceedings is expected to have been much higher when compared to the activity conducted by the VSE and CDNX in preceding years. Not only is the low number of total actions of concern, the nature of the proceedings seems unduly weighted towards individuals. No actions were taken forward against firms in the last 24 months and only 2 in the last 3 years.

Results have been affected by staff vacancies and file backlogs. The staff vacancies in Prosecutions and the absence of a Manager of Investigations, coupled with the backlog problems in all three departments, has once again impacted on the IDA's ability to obtain results during the review period. Currently, the CCB, Investigations and Prosecutions are all fully staffed and the only remaining file backlog is in Prosecutions. Staffing issues and file backlog problems are discussed in greater detail in sections 4 and 5.

An encouraging development is that the files that are currently in Prosecutions appear to be good files for Enforcement action and there have been some notable notices of hearings and settlements issued recently. It is expected that with staffing vacancies filled the results will improve. Again, it should be noted that the quality of the cases in Prosecutions is good and the amount and quality of work achieved with limited resources is noteworthy.

2. File Specific Issues

Previous Audit Findings

The following issues were identified in the 2000 BCSC audit:

- Improper file referrals to CDNX from Central Complaints Bureau (CCB).
- Failure to sign off on closure of an investigation, or closure recommendations outstanding for a number of months.
- Failure to document work with a memo or explanatory note giving reasons for why work was not done on a file or specific area of potential investigation.
- Improper assessment of portfolio risk in an investigation file.
- Failure to designate a new investigator to a file when the previous investigator has left the ID, unassigned files.
- Failure to indicate referral dates from Investigations to Enforcement Counsel.

2002 Audit Findings

File Sample
Forty files were selected from Investigations and Prosecutions for file reviews. No CCB files were reviewed. The files were chosen from both the active and closed file lists. Files were selected to include different investigators and a variety of allegations and some files were chosen because the subjects had notable regulatory histories.

IDA Files Reviewed

Department	Time Period Reviewed	Portion of all Open Files Reviewed	Portion of all Closed Files Reviewed
Central Complaints Bureau (CCB)	No CCB Files were reviewed.		
Investigations	April to September 2002	3/19	13/44
Prosecutions	April to September 2002*	16/21**	8/26

* *For the Open Prosecutions file review, all files that were opened as of November 25, 2002 were reviewed.*

** *To avoid disruption to Enforcement Counsel's open Prosecution files, we reviewed the Investigation Reports for those files, as opposed to reviewing the actual Prosecution files.*

General Issues

The following charts summarize file specific issues found in the sample files. The charts are broken down into objective and subjective issues and they identify specific deficiencies and the number of occurrences. Some issues appeared in more than one file.

File Specific Issues – Objective

Issues	Number of Files		
	Investigations	Prosecutions	Total
Failure to deal with files in a timely manner	1	1	2
Failure to document - reasons for file action or inaction	2	3	5
Failure to document - commencement date of investigation	0	2	2
Failure to prioritize files on a risk based approach	0	2	2
Delays in assigning files	2	0	2

File Specific Issues - Subjective

Issues	Number of Files		
	Investigations	Prosecutions	Total
Failure to pursue or properly consider supervision issues	3	2	5
Improper emphasis on a Registrant's departure from the industry as a reason for closing files	2	1	3
Failure to investigate possible patterns of violations – by not joining files with the same subject of investigation	0	1	1
Failure to investigate other issues	1	1	2
Inappropriate sanction – caution letter only	1	1	2
Improper focus on client losses versus focusing on the suitability of the investment	0	2	2

Assessment

Some of the specific file deficiencies such as, resolving files in a timely manner and maintaining sufficient file documentation, can be explained by large file loads and staffing vacancies that occurred during the review period. At various times throughout the review period there was a backlog of files in CCB, Investigations and Prosecutions. Staffing issues will be discussed in section 5 and file prioritization and backlogs will be discussed in section 4.

Timeliness issues should for the most part be addressed with a full compliment of staff and the introduction of performance benchmarks, which will be discussed in detail in sections 3, 4 and 11.

There has been much improvement in the files, especially notable is the diversity and complexity of the investigations being conducted. However, there are some areas that require improvement.

Areas for Improvement

Investigations involving firms failure to supervise

- Ensure that all CCB Complaint Officers and Enforcement Investigators are reviewing files for possible supervision violations.

The focus of IDA reviews and investigations was mainly on individuals as opposed to Member Firms. Five of the sample files reviewed failed to pursue or properly consider supervision issues. As noted in section 1, since the IDA assumed responsibility for Member Regulation in January 2000, there have been very few enforcement actions directed at Member Firms. This problem appears to be rooted in the processes used to initially gather information and the tools used to store that information.

Processes and Tools
CCB conducts IRIS checks, via Toronto, for individuals but not for Member Firms. Staff also check the BCSC Registration Database (non-public) to determine if file subjects have a regulatory history but the same emphasis was not being placed on conducting checks on Member Firm.

The IDA was not focusing on retaining and retrieving Member Firm information in its databases. According to one staff member, in the past, the IDA's knowledge of supervision related issues was based on the investigator's general knowledge or impressions about a firm, as opposed to obtaining Enforcement information from existing IDA databases.

Previously, staff relied on a system known as the ACCESS database. ACCESS checks provide information on compliance officers, firms, violation types and previous Enforcement action. A weakness of the ACCESS database is that it is not linked as CCB and Investigations have separate ACCESS databases.

Another source of Enforcement information is an internal database know as the K drive. This is a shared computer drive that CCB uses. CCB opens a file on the K drive for every individual that it investigates. CCB officers use the K drive to update and prepare daily reports.

Improvements to Databases
In June 2001, the Case Tracking System (CTS) was implemented. The CTS is a national electronic database system that includes information from CCB, Investigations and Prosecutions. CTS contains information such as the date a file is opened, the names of complainants, a description of the matter and a file's disposition. CTS is a useful source of information for post 2000 information. CTS will also be discussed in section 10.

Additional information about Member Firms is also contained in the new Complaints and Reporting Settlement System (COMSET) database. The IDA implemented Policy 8 to require Members to file complaint information with the IDA. The information is filed electronically and therefore is more easily accessible. COMSET will be discussed in greater detail in section 7.

The introduction of COMSET and the CTS enhance existing databases as they provide more information and include the ability to cross reference individuals and Member Firms. These new databases, coupled with a greater emphasis on investigating supervision violations, should assist in obtaining more Enforcement actions against Member Firms in the future.

Violation Patterns

- Identify violation patterns and consider joining investigations where appropriate.

This is an issue that needs Investigations Management coordination. Now that Investigations has a new manager, this issue can be addressed.

File Closing due to a Registrant's departure from the industry

- Ensure that a Registered Representative's (RR) departure from the industry is not the primary reason to close a file.

In three of the files reviewed, the files stated that the investigations were not being pursued as the RR under investigation had decided to leave the industry. IDA By-law 20.21 allows the IDA to take action against former Members up to five years after their departure from the industry. While a RR's departure has to be a factor in deciding how to

proceed with a file, too much emphasis is being placed on the RR's departure from the industry.

When asked about this concern, IDA staff stated that they did not believe that an RR's departure from the industry affected the investigation, nor did they view the five year limitation period as a problem. If the matter was serious enough to be referred to Investigations, then the matter would be pursued. Staff believed that the only real impact on an investigation of an RR leaving the industry is the sensitivity and priority levels of the investigation. Future files must reflect this approach and the file documentation must clearly explain the investigator's rationale to close a file that involves a RR's departure from the industry.

3. Central Complaints Bureau (CCB)

Previous Audit Findings

The 2000 BCSC audit and the Chambers review concluded that there were a number of inefficiencies in the CCB. The CCB had staffing problems and the overall review process was inefficient. Files were not being concluded in a timely manner. Too much time was spent on service issues and full investigations were conducted on all files, regardless of materiality. This failure to set priorities contributed to an unmanageable backlog.

Recommendations

- Develop methods to deal with service issues in a way that does not detract from Enforcement issues. (*BCSC Recommendation # 42*)
- Assist CCB staff to assess complaints more quickly and to focus on enforcement priorities and those files likely to lead to significant enforcement action. (*BCSC Recommendation # 42*)
- Create an additional complaints officer position. *(Chambers Recommendation # 24*)
- Advise a complainant of the review and disposition of an inquiry by CCB, including whether the file has been transferred to Investigations, but do not advise complainants of whether an investigation is actually commenced. *(Chambers Recommendation # 46*)
- Refer complaints about failure to transfer on a timely basis to Members for resolution within a fixed period (i.e., 30 days) following which they may be subject to discipline. *(Chambers Recommendation # 47*)
- CCB officers will perform initial screening of complaints and preliminary case assessment. *(Chambers Recommendation #42*)
- Make improvements to the process by which cases are managed as follows:
  - Present complaints to the subjects and the compliance department of the Member for explanation before the IDA invests significant time in analysis and document review
  - Provide Training to Investigators
- Prepare written guidelines for how files are opened, how cases are managed and the approval process for closure, including documentation standards. (*Chambers Recommendation # 16)*

- Improve the complaint inquiries process:
  - Be more proactive.
  - Provide information about the complaints process via the Internet or in hard copy.
  - Provide a standard complaint form and examples of complaints on the IDA website.
  - Provide a 1-800 number for complaint enquiries.
  - Coordinate and share information amongst the complaint inquiries units across Canada.

  (Chambers Recommendation # 39)
- Actively seek complaints from the public. *(Chambers Recommendation # 43)*
- Schedule regular meetings with investigators and prosecutors to enable management to understand how individual cases are progressing and provide coaching and training on the job. *(Chambers Recommendation # 17)*
- Implement key performance indicators for:
  - CCB:
    - Written acknowledgement of a complaint within 48 hours.
    - Resolution or transfer of a complaint within 75 days.

    (Chambers Recommendation # 18)

IDA Action Taken

IDA Action - BCSC Recommendation # 42 and Chambers Recommendation # 24
Another Complaints Inquiries Officer position was added to the Enforcement Division, bringing the total compliment of Complaint Inquiries Officers to three.

IDA Action - Chambers Recommendation # 46
A complainant is informed of the review and disposition of a complaint by the CCB and also informed if the file has been referred to Investigations. The IDA decided to continue the practice of generally informing complainants if an investigation was actually commenced.

IDA Action - Chambers Recommendation # 47 and BCSC Recommendation # 42
The CCB Policies and Procedures Manual sets out various methods of dealing with isolated instances of failure to transfer clients' accounts from one firm to another. The IDA will initiate formal disciplinary action against a Member firm only when there is a systematic breakdown by the Member firm in failing to transfer accounts on a timely basis. The matter is brought to the attention of the Enforcement Manager.

IDA Action - Chambers Recommendation # 16 and Chambers Recommendation # 42
The CCB's Policies and Procedures Manual sets out situations when explanations are required from the subject and the compliance department of the Member.

The file screening guidelines were approved by the Member Regulatory Oversight Committee (MROC) in September 2001 and implemented in December 2001. Violations were defined and screening scores were developed. Amendments to the screening guidelines and the scores will be made as required improvements are identified. CCB adopted a risk-based approach to file assessment that uses these guidelines to score files to determine file prioritization. Currently the file screening guidelines are being manually completed and placed in the respective complaint files. Eventually, the forms will be filed and completed electronically.

IDA Action- Chambers Recommendation # 39 and # 43
The IDA's website has extensive information on how to file a complaint.

IDA Action - Chambers Recommendation # 17
The Managers of Investigations and the Investigators in the Vancouver office generally hold monthly meetings to discuss the progress of the investigation files and ongoing investigation strategies.

IDA Action- Chambers Recommendation # 18
Current methods of handling complaints are outlined in the CCB Policies and Procedures manual dated September 2002.

Key Performance Indicators
The Policies and Procedures Manuals for CCB, Investigations and Prosecutions outline specific Key Performance Indicators (KPIs). KPIs are performance benchmarks that specify timelines for the completion of tasks in each department. KPIs are also a useful management tool that assist in monitoring and tracking file progress.

The KPIs that apply to CCB are:

- Provide an acknowledgement letter to complainants within 48 hours of receipt of the complaint.
- Request documentation from Member firms within 72 hours of receipt of the complaint.
- Update complainants on the status of their files every 45 days by telephone or letter.
- Maintain the average complaint inquiry file age at 75 days of less.

The CCB Policies and Procedures manual acknowledges that flexibility may be exercised in certain instances. The KPIs are outlined on a piece of paper that is attached to the front cover of all CCB files. The Manager of Investigations signs off on the KPIs when the files are closed. In the future, Managers will monitor KPIs electronically through the CTS system.

Investigations Analyst
CCB staff also rely on an investigations analyst to assist with files. For example, for suitability investigations, the investigation analyst will prepare the following:

- Transaction summaries
- Profit and loss analysis
- Suitability analysis – monthly holdings are divided up and allocated to their respective investment objectives and risk levels.
- Concentration analysis

The investigation analyst only conducts this analysis for files that CCB intends to refer to Investigations.

Assessment

The CCB Polices and Procedures Manual addresses the problem of spending too much time on a file with no results and it gives specific guidance on how to deal with service issues. The result has been an improvement in the timeliness of CCB file reviews.

The CCB achieved the following results for files that were closed or transferred in 2002:

Complaint Files Closed or Transferred in 2002

Time Period	=<75 Days	=<100 Days
January 01/02 to March 31/02	53%	66%
April 1/02 to June 30/02	76%	88%
July 1/02 to September 30/02	59%	70%
October 1/02 to December 31/ 02	60%	70%

The following chart shows the age of CCB files in 2002

2002 CCB – Aging Chart

Age of File	Jan. 1st to March 31st	April 1st to June 30th	July 1st to Sept. 30th	Oct. 1st to Dec. 31st
0 to 30 Days	17	19	8	9
31 to 60 Days	6	20	11	9
61 to 90 Days	6	7	7	8
91 to 120 Days	1	5	6	2
121 to 150 Days	0	0	2	1
151 to 180 Days	0	1	3	1
181 to 364 Days	0	0	1	1
1 to 2 Years	0	0	1	0
Greater than 2 Years	0	0	0	0
Total Files	30	52	39	31
Average Number of Days Files are Open	34	46	81	60

The CCB Aging Report shows that CCB met its KPI target of completing the average number files within 75 days for three of the four quarters in 2002.

The Manager of Investigations sets the file priorities based on the guidelines outlined in the CCB Policies and Procedures Manual. The IDA's Toronto office sets the criteria for file weightings and file sensitivities. Occasionally, the Toronto office will specify issues that the CCB should focus on. An example of this is the recent focus on short selling activity. Aside from this input, Toronto has very little influence on the file prioritization process in the CCB.

Staffing and backlog issues will be discussed separately in sections 4 and 5 but, generally, CCB was slightly affected by staffing vacancies and file backlogs during the review period. The backlog in CCB was addressed in May 2001. It reappeared briefly in August and September 2002, after the departures of one of the CCB Complaints Officers, however, the backlog has now been eliminated.

This audit did not extensively review CCB procedures and no CCB files were reviewed as there were impending changes to CCB. To increase efficiency and streamline operations, the IDA consolidated and moved all CCB positions to the IDA's Calgary office in February 2003. The CCB in Calgary now has four complaint officers and one manager who focuses solely on CCB issues. Previously, the Manager of Investigations performed this role.

4. File Prioritization and Backlogs

Previous Audit Findings

The 2000 BCSC audit and the Chambers review found that management did not prioritize files. The IDA opened a file on every valid complaint regardless of the size or severity of the allegations. Despite an increase in file caseloads due to expanded regulatory responsibilities, Enforcement continued to treat all investigation files equally and the result was a large backlog of files. The 2000 BCSC audit stressed the importance of a risk-based approach to file prioritization to ensure effective enforcement results.

Recommendations

- Implement Key Performance Indicators (KPIs) for CCB, Investigations and Prosecutions. *(Chambers Recommendation # 18)*
- Set file-screening guidelines annually on the basis of recent trends and the IDA's enforcement strategy. *(Chambers Recommendation # 28)*
- Apply screening guidelines to breaches forwarded to Investigations by CCB to assist materiality, thus ensuring every complaint will receive some level of scrutiny but only those of significance will be subject to a rigorous investigation process. *(Chambers Recommendation # 29)*
- Implement a risk based approach to target specific files and fast track those of greatest importance to ensure effective enforcement. *(BCSC Recommendation # 46)*
- Develop a plan for addressing the backlog in enforcement litigation files and for decreasing the time it takes for counsel to bring the files forward for enforcement action. *(BCSC Recommendation # 47)*
- Build sufficient flexibility into its risk-based procedures to ensure that all appropriate criteria are included and appropriately weighted. *(BCSC Recommendation # 48)*
- Set a target of one year for completion of investigations and ensure no investigation takes more than two years without written approval of the President. *(Chambers Recommendation # 14)*
- During the planning of each investigation, the investigator, Enforcement counsel and manager assigned to the case must agree on specific milestones to be achieved and these milestones will be monitored and adjusted during regular meetings held as the investigation proceeds. *(Chambers Recommendation # 15)*
- Make improvements to the process by which cases are managed as follows:
  - Present complaints to the subjects and the compliance department of the Member for explanation before the IDA invest significant time in analysis and document review.
  - Provide training to Investigators, and
  - Prepare written guidelines for how files are opened, how cases are managed and the approval process for closure, including documentation standards.

(Chambers Recommendation # 16)
NOTE – these suggestions also appear in the CCB section on page 12

- Schedule regular meetings with investigators and prosecutors to enable management to understand how individual cases are progressing and provide coaching and training on the job. *(Chambers Recommendation # 17)*
- Implement key performance indicators for:
  - Investigations:
    - Complete all investigations within one year.
    - No investigation will exceed two years.
    - Compare budgeted to actual time (once a time management system is available)
  - Prosecutions:
    - Track the time Enforcement counsel spends on prosecution and administrative (e.g. training) tasks.

    (Chambers Recommendation # 18)
- Bring the backlog under control. *(Chambers Recommendation # 44)*
- Perform a review of investigation and prosecution files to assess the best method of working through the backlog including improved process, settlement, warnings and closure. Create an additional complaints officer position. *(Chambers Recommendation # 45)*

IDA Action Taken

IDA Action - Chambers Recommendation # 18
Key Performance Indicators have been established for the CCB, Investigations and Prosecutions. KPIs are detailed in Appendix # 2. KPIs are an important part of the IDA's objectives in its efforts to develop and implement benchmarks for member regulation. The Enforcement Division's measure of their benchmarks is through the Case Tracking System (CST), copies of which are received at the BCSC.

IDA Action - Chambers Recommendation # 28 and Chambers Recommendation # 29
The policies and procedures manuals set out the objectives and process of file screening. The file screening guidelines were approved by Member Regulatory Oversight Commission (MROC) in September 2001. These guidelines are to be adjusted on the basis of trends and the IDA's enforcement strategy.

IDA Action - BCSC Recommendations #46, #47 and #48
The File Screening Guidelines reflect the risk-based approach to allow Enforcement staff to structure their work.

The IDA authorized the hiring of one more Enforcement Counsel. This staff addition coupled with the implementation of screening criteria and the streamlining of other processes was expected to bring the backlog under control by the end of 2001.

IDA Action - Chambers Recommendation # 14
The following targets have been set for new investigations:

- Complete standard investigations within one year otherwise obtain approval from the Vice President Enforcement or Vice President Western Canada; and
- Complete all investigations within two years otherwise obtain approval from Senior Vice President Member Regulation.

IDA Action- Chambers Recommendation # 15, # 16 and # 17
The initial investigation process is as follows:

- An issue is approved for investigation.
- The assigned Investigator(s) prepares an investigation plan that has to be approved by the Manager, Investigations.
- Regular ad hoc meetings are held for the purpose of prioritizing investigation files.
- The Manager of Investigations and the Investigators meet on a regular basis to review the prioritized files for the purpose of re-prioritizing files and reviewing the ongoing progress and strategy on the files.
- Enforcement Counsel is also consulted on a regular basis to provide advice on investigation files.

IDA Action - Chambers Recommendation # 44 and # 45
The current benchmarks for completion of Complaint files, Investigation files and Prosecution files are as follows:

- Complaint files within an average of 75 days;
- Investigation files within an average of 1 year; and;
- Prosecution files within an average of 1 year.

Assessment

Key Performance Indicators
A complete list of all of the KPI targets for the CCB, Investigations and Prosecutions are outlined in a chart in Appendix # 2.

File Priorities and File Assignment
The Manager of Investigations sets the file priorities based on the guidelines outlined in the Investigations Policies and Procedures Manual. Investigation files are prioritized and assigned based on past experience, workloads and conflict of interest considerations. For example, the spouse of one of the investigators works for a Member Firm so this investigator never investigates issues that concern that firm. CCB file prioritization and backlogs were discussed in section 3.

Previously in Prosecutions, the senior Enforcement Counsel reviewed and assigned the files. In a few of the older Prosecution files that were reviewed in this audit, there were references to the file "waiting its chronological due". It appeared that files were not being prioritized but rather were being dealt with in the order that they were received.

Prosecutions new policies and procedures have changed how files are initially assessed and prioritized. Files are still reviewed in the chronological order in which they are received, however, now the files are assessed much earlier to ensure that the file meets the requisite standard of proof and that the evidence is in order. The Vice President, Member Regulation, Western Canada, Warren Funt, prioritizes the files based on the CTS information, with some input from the Director of Litigation in Toronto. The KPIs require that the files be processed and acted upon in a timely manner. See Appendix # 2 for Prosecutions KPIs.

Regular Meetings with Staff
During most of the review period, there was no Manager of Investigations. As a result, there was insufficient time to schedule regular meetings with Investigations and CCB staff to discuss cases and exchange ideas. The acting Manager of Investigations only met with CCB and Investigation staff when required.

Backlogs
A backlog exists when CCB, Investigations or Prosecutions files do not meet their established KPIs. A file backlog occurs if the average number of days a file is open exceeds:

- 75 days for CCB files;
- One year for standard Investigation files and two years for all other files, if the file receives approval from the Senior Vice President, Member Regulation; and
- One year for the majority of Prosecution files.

CCB
Of the three departments, CCB has had the most opportunity and experience in applying KPIs. These revised standards appear to be making the CCB more efficient. Based on the 2002 CTS reports, many of the CCB files are meeting their established KPIs of completing files within 75 days. CCB eliminated its backlog in May 2001. There was a temporary backlog in August and September 2002, but since that time, the CCB has met its target of completing files within the required time frame. CCB KPIs, file loads and backlog issues were discussed in greater detail in section 3.

Investigations

Investigation KPIs require that investigation files be completed within one year for standard investigations, and within two years for all other investigations. As of December 31, 2001, there were 53 open Investigation files. The following chart shows the number of IDA Investigation files that were opened and closed in 2002 and the first quarter of 2003:

Investigation Files

Time Period 2002 (Quarterly)	Files Open Beginning Of Quarter	Files Opened, Transferred In, During Quarter	Files Closed, Transferred Out During Quarter	Files Amalgamated	Files Open At End of Quarter
Jan. 1 to March 31 2002	53	19	2	0	70
April 1 to June 30 2002	70	11	1	0	80
July 1 to Sept. 30 2002	74*	8	48	13	21
Oct. 1 to Dec. 31 2002	22*	3	5	0	20
Jan. 1 to March 31 2003	20	12	3	0	29

* *The number of files at the end of one quarter should be equal to the number of files open at the beginning of the next quarter. However, there are discrepancies in the CTS Report numbers. The CTS Reports state that there were 80 files open at the end of June and 74 files at the beginning of July and that there were 21 files open at the end of September and 22 files at the beginning of October.*

The above chart shows that there was an increase in the number of files in the second and third quarters of 2002. To reduce the number of files and avoid a backlog, the IDA assessed and prioritized the files to determine which files would be investigated given available resources. The IDA used cautionary letters to deal with files that appeared to be well founded but not overly serious in nature.

The purpose of caution letters is to inform registrants that their conduct is questionable and possibly in violation of IDA Rules and Regulations. Caution letters and warning letters also establish a history that can be referred to should the registrant come to the IDA's attention again in the future. A caution letter differs from a warning letter in the following ways:

- Caution Letters
  - Investigations and CCB staff write caution letters.
  - Internal sanction that appears on CTS but not IRIS.
  - No flag is placed on the BCSC SCAN profile screen.

- Warning Letters
  - Prosecutions staff issue and write warning letters.
  - Internal sanction that appears on CTS and IRIS.
  - A flag is placed on the BCSC SCAN profile screen.

In 2002 and the first quarter of 2003, of the files that the IDA closed or transferred out, the IDA achieved the following results:

Investigation Files Closed or Transferred

Time Period 2002 (Quarterly)	Number of Files Closed or Transferred Out	Percentage of Files Closed or Transferred within 270 Days	Percentage of Files Closed or Transferred out within 365 Days
Jan. 1 to March 31 2002	2	100%	100%
April 1 to June 30 2002	1	0%	100%
July 1 to Sept. 30 2002	48	52%	72%
Oct. 1 to Dec. 31 2002	5	20%	20%
Jan. 1 to March 31 2003	3	33%	100%

The large number of files closed out in the third quarter was the result of the above-mentioned efforts to reduce overall file numbers.

The following chart shows the age of the Investigation files in 2002 and the first quarter of 2003:

Investigation Files – Aging Chart

Age of File	Jan. 1 to March 31 2002	April 1 to June 30 2002	July 1 to Sept. 30 2002	Oct. 1 to Dec. 31 2002	Jan. 1 to March 31 2003
0 to 30 Days	2	1	1	0	6
31 to 60 Days	6	2	2	1	1
61 to 90 Days	11	8	0	1	4
91 to 120 Days	2	2	0	1	0
121 to 150 Days	11	5	0	2	1
151 to 180 Days	12	11	5	0	1
181 to 364 Days	11	31	5	7	6
1 to 2 Years	9	13	6	6	8
Greater than 2 Years	6	7	2	2	2
Total Files	70	80	21	20	29
Average Number of Days Files are Open	237	298	328	377*	315

* *Backlog*

The backlog was eliminated by November 2001 but as the chart above shows, it reappeared in December 2002, despite efforts to reduce file numbers in the second and third quarters of 2002. By March 31, 2003, the average number of days Investigation files were open was reduced to 315 days and the backlog was again eliminated.

Prosecutions

KPIs for Prosecutions require that files be concluded on average within 365 days. The following chart details the number of files completed in 2002 and in the first quarter of 2003:

Prosecution Files – Files Closed

Time Period	Files Completed
January 1, 2002 to March 31, 2002	23
April 1, 2002 to June 30, 2002	13
July 1, 2002 to September 30, 2002	13
October 1, 2002 to December 31, 2002	10
January 1, 2002 to March 31, 2003	3

As of December 31, 2001, Prosecutions had its highest number of files to date, 72 files. The following chart shows the number of files that were opened and closed in Prosecutions in 2002 and the first quarter of 2003:

Prosecution Files

Time Period 2002 (Quarterly)	Files Open Beginning Of Quarter	Files Opened, Transferred In, During Quarter	Files Closed, Transferred Out During Quarter	Files Amalgamated	Files Open At End of Quarter
Jan. 1 to March 31 2002	72	6	23	0	55
April 1 to June 30 2002	55	2	13	0	44
July 1 to Sept. 30 2002	42*	5	13	7	27
Oct. 1 to Dec. 31 2002	26*	6	10	0	22
Jan. 1 to March 31 2003	22	0	2	1	19

* *The number of files at the end of one quarter should be equal to the number of files open at the beginning of the next quarter. However, there are discrepancies in the CTS Report numbers. The CTS Reports state that there were 44 files open at the end of June and 42 files at the beginning of July and that there were 27 files open at the end of September and 26 files at the beginning of October.*

Previously, Prosecutions eliminated its backlog in December 2001, however, a new backlog developed in July 2002. File loads were reduced in the third quarter of 2002 through file prioritization. After the departure of one of the prosecution lawyers, the remaining Enforcement Counsel, and the Vice President of Member Regulation, Western Canada, reviewed the files to determine what action should be taken. Enforcement Counsel prepared file summaries for all of the files to assist in the assessment of what action would be taken. Some files were closed and the remaining files were assigned to Enforcement Counsel in the Vancouver, Calgary and Toronto offices, as well as outside counsel. As of March 31, 2003, Prosecutions file load dropped to 19 files but the backlog persists as the following chart shows:

Prosecutions – Aging Chart

Age of File	Jan. 1 to March 31 2002	April 1 to June 30 2002	July 1 to Sept. 30 2002	Oct. 1 to Dec. 31 2002	Jan. 1 to March 31 2003
0 to 30 Days	0	0	0	2	0
31 to 60 Days	0	0	0	1	0
61 to 90 Days	0	2	5	1	0
91 to 120 Days	0	0	0	0	1
121 to 150 Days	18	0	0	0	1
151 to 180 Days	4	0	0	4	1
181 to 364 Days	21	27	5	0	4
1 to 2 Years	10	11	11	11	10
Greater than 2 Years	2	4	6	3	2
Total Files	55	44	27	22	19
Average Number of Days Files are Open	274	351	443	413	484

Conclusion
The IDA no longer conducts a formal investigation into every complaint that it receives. The implementation of the File Screening Guidelines and the risk based approach for file prioritization has allowed the IDA to reduce file loads when necessary and focus resources on files that have the most serious violations. Based on our review of the open cases in Prosecutions, file prioritization appears to have resulted in the selection of appropriate files for Enforcement action.

There were backlogs in all three departments at various times during the review period.

CCB
In CCB there have been no backlogs since September 2002 and as of December 31, 2002, CCB has met its KPI requirement of completing files within an average of 75 days.

Investigations
In December 31, 2002, Investigations had not met its KPI of completing files within an average of 365 days as the average number of days for Investigations files was 377 days. However, as of March 31, 2003, the average number of days for completion of files dropped to 315 days, although one third of the Investigation files are still over one year old.

Prosecutions
The most serious file backlog exists in Prosecutions. As of December 31, 2002, the average age of files was 413 days. This is it well beyond the requirement to complete the majority of Prosecution files in one year. The backlog has persisted since July 2002 and as of March 31, 2003, the average age of files increased to 484 days. Meeting the KPI of 365 days will be a challenge for Prosecutions, even with the recent hiring of a third Enforcement Counsel.

The backlogs experienced in the past in CCB and Investigations can't be repeated. The current backlog in Prosecutions must be dealt with. The IDA will be held accountable for meeting its own KPIs set for each department.

5. Staffing

Previous Audit Findings

The 2000 BCSC audit and the Chambers Report determined that there was a lack of trained and experienced investigators, legal counsel and complaints officers. Except for one investigator, there was a lack of experience among investigators. The most experienced investigator had six months of securities investigation experience and the manager of investigations, while experienced, was not familiar with the local market. There was high staff turnover and it was questionable whether current staff had the ability to handle complex local issues.

Recommendations

- Ensure that turnover is kept to a minimum. *(BCSC Recommendation not specifically numbered)*
- Emphasize the opportunity to learn about the securities industry and achieve improved life-style that can be available (e.g. predictable working hours, professional environment, benefits) as recruitment tools. *(Chambers Recommendation # 21)*
- Proceed with implementation of improvements to the salary and incentive structure. *(Chambers Recommendation # 19)*
- Implement orientation training. *(Chambers Recommendation # 22)*
- Ensure current and new staff receive extensive training. *(BCSC Recommendation # 44)*
- Hold regular training sessions on topics of current interest, case dissections, and specific issues such as compliance. *(Chambers Recommendation # 23)*
- Introduce a more consultative and open management style with improved delegation or responsibility. *(Chambers Recommendation # 20)*
- Create an additional enforcement counsel position. *(Chambers Recommendation # 24)*
- Reassess the number of positions in Investigations, Prosecutions and CCB after ten months, and adjust as required. *(Chambers Recommendation # 25)*

IDA Action Taken

IDA Action - Chambers Recommendation # 21
The IDA's Human Resources Department explains the advantages and benefits offered by the IDA to all short listed candidates for employment positions. For successful candidates, there is also an orientation process that further discusses the benefits and advantages offered by the IDA.

IDA Action - Chambers Recommendation # 19
The IDA revised and increased its compensation structure on January 1, 2001.

IDA Action - Chambers Recommendation # 22
The IDA implemented the following procedures to orient Complaint Inquiries Officers, Investigators and Enforcement Counsels:

- All new hires are given an orientation presentation by the Human Resources Department which comprises the history of the IDA, the organizational structure of the IDA, details of the benefit programs and other general policies applicable to all staff;
- The Complaint Inquiries Officers, Investigators and Enforcement Counsels are usually provided with an overview of the various units of the Enforcement Department and the roles of each unit;
- The new hires are provided with copies of the general policies and procedures manual, the complaint manual, the investigation manual and prosecution manual;
- The new Enforcement Counsels are usually brought to the Toronto office to meet with the Director of Litigation and provided with an overview of the Toronto Enforcement operations;
- The new hires "buddy up" with an experienced individual for a period of time when the handling of files and issues are discussed; and
- New Investigators accompany more experienced Investigators on interviews.

IDA Action- Chambers Recommendation # 23
Investigators and Enforcement Counsel attended several training sessions and courses to improve their skills. The following courses have been held and/or attended:

- The Royal Canadian Mounted Police complaint intake and assessment process training attended by all Complaint Officers;
- Forensic Accounting and Investigations by John N. Douglas, B.Sc., CFE, CA. Attended by all Enforcement staff;
- Note taking for Investigators by Doug Cope, Manager of Investigations. Attended by all Enforcement staff;
- Appendix handling by Alex Popovic, Vice President Enforcement. Attended by all staff;
- Policy #8 and ComSet by Belle Kaura, Enforcement Policy Counsel and Michael Haddad, Director of Investigations. Attended by all staff; and
- Investigators must complete the Canadian Securities Courses as a condition of employment.

In addition to the above, various Enforcement staff has attended the following courses:

- OSC Securities training course;
- CICA In depth Brokers and Investment Dealers Course;
- RCMP Commercial Crime Training course;
- IDA Compliance & Legal Section Seminar;
- Alberta Securities Law and Regulation Seminar;
- OSC/KPMG Interviewing Skills training course;
- Administrative Law and Practice Course;
- Interviewing and Investigation course at Sheridan College;
- SIA Legal and Compliance Seminar;
- How to handle a complaint;
- Media relations and crisis management for regulators;
- Advance forum on Securities litigation;
- MBA concepts for lawyers;
- Securities compliance; and;
- Integrated advocacy.

IDA Action- Chambers Recommendation # 20
The IDA took a number of steps to empower staff and to facilitate open communication including the following:

- Weekly meetings with managers in the Toronto office to facilitate better communication between mid-level managers and senior managers. This involves two way dialogue and general discussion about issues that directly affect operations, work environment, staffing and related items in the Toronto office;
- Monthly meetings with all enforcement managers are generally held to facilitate both administrative and operational discussions of ongoing matters, project planning, budget items and policy development;
- Involvement of and encouragement of all staff to participate in policy development, committee work on specific projects and policy development, such as the Chambers recommendations;
- Meetings across Canada involving all member regulation staff in development of annual planning process;
- The establishment of a "peer council" made up of representatives within each and every group across Canada. The peer council is established to provide input from all levels of staff to provide management with concerns and suggestions on a broad range of topics as possible. The peer council meets on a ad hoc basis and items are brought to the attention of management;
- Senior management has taken a cross section of staff, including staff from other departments and conducted a work exercise to facilitate and understand regional differences in policy implementation;

- Both the Senior Vice President Member Regulation and the Vice President Enforcement have made personal visits to all regional offices and continue to do so on a continuing basis. This has included an opportunity for individual interviews with each and every employee to discuss goals, training needs, aspirations and suggested changes; and
- Both the Senior Vice President Member regulation and the Vice President Enforcement have encouraged an open door policy that encourages any staff member to phone, email, or personally visit to discuss any issue or concerns.

IDA Action - Chambers Recommendation # 24
One additional enforcement counsel and one additional complaints officer position were added.

IDA Action - Chambers Recommendation # 25
Several additional positions were recommended in the Chambers' report. All the positions approved by the MROC have been filled.

The staffing levels have been reviewed and are considered adequate for the foreseeable future. The staffing levels will be considered once again during the fall of 2003.

Assessment

CCB
CCB had vacancies in 2000 and 2002 but the staffing compliment was relatively stable in 2001. CCB tends to have more frequent staffing vacancies due in large part to career enhancement opportunities. As one staff member pointed out, CCB will likely always have high turnover because Complaint Officers often are promoted from CCB into Investigations.

Investigations
No investigators have left the department during the review period. The Manager of Investigations position was vacant for significant periods during this time and was being filled by an acting candidate. Since December 2001, except for the period between March 2002 and August 2002, the Manager's position has been vacant. In December 2001, the Manager of Investigations position became available when the Manager of Investigations was reassigned to the Prosecutions department.

The absence of a permanent Manager of Investigations has impacted on the IDA's Enforcement results. The acting manager had only three years of investigative experience and while he was acting manager, he was unable to attend to his own files on a full time basis. Investigations staff have solid industry experience, however, they have limited investigative experience.

Prosecutions
Prosecutions had the most significant staffing vacancies during the review period. There was turnover in two Enforcement Counsel positions. Also, Prosecutions increased its staffing compliment from two Enforcement Counsel positions to three, and the former Manager of Investigations who moved to Prosecutions, completed his legal studies during part of the review period. The result was Prosecutions was not fully staffed throughout most of the review period.

Future Outlook
With the recent hiring of the Manager of Investigations, Investigations is now fully staffed and the acting Manager has now returned to Investigator position. The Manager of Investigations' experience and knowledge of the local market will assist with file management and resource allocations.

Now that Investigations and Prosecutions are fully staffed, greater Enforcement results are expected. Our expectation is that in the next eighteen months more files will be acted upon with the result being an increase in Enforcement actions and productivity.

The staffing compliment must be maintained in all three departments. Future staffing vacancies for any reason, including internal staff promotions, or staff departures from the IDA for other industry positions, will not be accepted for prolonged periods of time. The BCSC will now require an explanation for any position that is vacant for more than sixty days. The Vice President Western Canada must notify the Director of Capital Markets Regulation of the vacancy and provide reasons why the position cannot be staffed. Staffing vacancies must not be allowed to impact on the IDA's Enforcement results.

Training
There is an ongoing commitment to training. Aside from courses offered at the Canadian Securities Institute, some IDA staff felt the most useful training was courses that involved the case dissection format, where a case is presented and course participants go through the case from start to finish.

IDA staff found lunch and learn sessions to be useful and certain staff members expressed an interest in the following courses:

- Lunch and learn session about Market Regulation Services Inc.
- Interviewing course specific to the securities interviews.
- Secondment to Member firms to assist with their understanding of back office functions.
- How to deal with the public and/or difficult people (CCB request).

The BCSC and the IDA should consider joint training initiatives as the development of certain courses, such as interviewing techniques, would benefit both organizations.

6. Sales Compliance Department (SCD) Referrals

Previous Audit Findings

The 2000 BCSC audit determined that there was only one referral from the SCD to Investigations during the review period. IDA staff acknowledged they are working on the referral process which was formalized in a 1997 memo. A problem with the referrals was the requirement to notify Members when an investigation was commenced. Members objected to Examiners in the SCD acting as investigators.

Recommendations

- Develop an efficient referral system from SCD to Investigations and eliminate the requirement to inform members that an investigation has been commenced. *(BCSC Recommendation # 41)*

IDA Action Taken

IDA Action - BCSC Recommendation # 41
The IDA developed new guidelines for referring cases to Enforcement. Attached as Appendix # 3 is a copy of the SCD guidelines for deficiencies/risk of adverse consequences and the guidelines for referring SCD issues to Enforcement.

The practice of informing Members of investigations is required by IDA By-law 19. The IDA reviewed By-law 19 and determined that it would not change the requirement to notify members that an investigation is being opened. The IDA believes that it is appropriate for a Member to informed of an investigation and that the new guidelines will ensure that there is no hesitation by SCD to make a referral to Enforcement.

Assessment

Despite the IDA's new formalized referral process, there were few referrals from January 1, 2001 to December 31, 2002. Investigations estimated that there were twenty referrals, but after adjusting for files that dealt with the same respondent and supervision of the respondent's firm, the IDA estimates that the number of individual referrals between January 1, 2001 and December 31, 2002, is twelve. Enforcement should ensure that it documents all SCD referrals to maintain an accurate count of SCD referrals.

Working Relationship between SCD and Investigations
Investigators don't routinely review SCD reports. There is a distinct separation between the two departments and information sharing is not occurring. The Policies and Procedures Manual states that the information is available, yet investigators seem reluctant to access it. The SCD report information is only available if investigators make an e-mail request for specific SCD report information. The files are accessible to investigators but they must first have a concern or reason to look at the file.

The SCD Examiners can access Investigation file information if they make a specific request. The SCD is only allowed to look at allegations, not the specific file contents, and no documents are permitted to leave Investigations. It should be noted that senior management in the SCD have access to only certain CTS information. Although access is limited, it still assists the SCD in identifying firms at risk.

Referral Process
There is some confusion among IDA staff about the referral process. CCB believes that all referrals go through them, however, Investigations believes that all SCD referrals go to the Vice President, Member Regulation and then to Investigations, bypassing CCB.

The confusion may be explained by the fact that the policy and procedures guidelines state that transgressions are referred to different places, depending on the nature of the deficiency and the risk of adverse consequences. For example, a significant compliance breach at the branch office level will be referred to Enforcement if the risk of consequences is deemed to be high, but if it is deemed to be low, it will be referred to the Senior Vice President, Member Regulation, and then possibly to Enforcement.

While the IDA has implemented new policies and procedures for referring files to investigations, the number of referrals is still very small. The lack of coordination of information flows from the SCD to Enforcement is not acceptable. The SCD reviews are a powerful tool in the early detection of problems in Member firms.

The IDA still automatically advises firms when they are under investigation despite the 2000 audit recommendation to discontinue this practice. By-law 19 is currently under review and one of the suggested revisions includes a provision that would allow the Vice President, Enforcement or the Vice President, Western Canada, to waive the notification requirements.

7. Investor Complaints and Settlements

Previous Audit Findings

Withdrawal of Complaints
The 2000 BCSC audit and the Chambers review identified the problem of Investors withdrawing complaints after initially filing with the IDA. One of the reasons that this was occurring was because Members settled disputes with the complainants and encouraged them to withdraw their IDA complaints. Some Members imposed confidentiality requirements that specifically prohibited clients from dealing with the IDA. The withdrawal of complaints with the IDA sometimes resulted in the closing of the complaint files, which is a waste of resources and in some cases, important violations were not investigated.

Informing the IDA of Complaints and Settlements
The Chambers Report concluded that Members were not required to inform the IDA of all complaints and settlements. Given that complaints are important investigative and risk management tools, the IDA was missing out on valuable information.

Review of Material Settlements
The Chambers Report also noted that the IDA has a requirement to review all material settlements involving its members and clients on at least an annual basis, to determine if any action is warranted, as per the IDA Recognition Order of the Ontario Securities Commission. The IDA was not conducting these reviews on an annual basis.

Recommendations

- Amend the Rules to require that Members file electronically monthly information in standard form on all complaints (except service complaints) and settlements with sufficient particulars to identify the complainant, the registered representative and the nature of the allegations. *(Chambers Recommendation # 4)*
- Develop and institute procedures to minimize the adverse impact on an investigation of withdrawal of a complaint. Explain to complainants that once they lodge their complaint a withdrawal may not result in the closing of a file. *(BCSC Recommendation # 43 and Chambers Recommendation # 3)*
- Notify Members that it is unacceptable to advise a client against cooperating with the IDA. *(BCSC Recommendation not specifically numbered and Chambers Recommendation # 3)*
- Take recorded statements of complainants as soon as possible. In the event that a complainant withdraws a complaint, the IDA can still proceed with an investigation. *(BCSC Recommendation not specifically numbered)*
- Review all material settlements involving members and their clients to determine if any action is required. *(Chambers Report, not specifically numbered as a recommendation)*

IDA Action Taken

IDA Action - Chambers Recommendation # 4
The IDA developed Policy 8 and the Complaints and Reporting Settlement System (COMSET) to allow Members to file complaint information electronically. COMSET went live on Tuesday, October 15, 2002. The Sales Compliance Department has prepared a review module and will be conducting reviews of the member firms to assure themselves that firms are in fact complying with Policy # 8. Attached as Appendix # 4 is a copy of the IDA Bulletin # 3051 announcing the introduction of Policy 8.

IDA Action – BCSC Recommendation # 43 and Chambers Recommendation # 3
On May 22, 2001, a Member Regulation Notice, MR-076 was distributed to Members. MR-076 states that Members may face disciplinary action if any settlement agreement contains language that attempts to restrict a complainant from contacting, or co-operating with, the IDA, a securities commission, a stock exchange or any other regulatory body. Attached as Appendix # 5 is a copy of MR-076.

IDA Action - BCSC Recommendation not specifically numbered
Once a formal investigation is initiated, the IDA attempts to interview complainants as soon as is practical. The new benchmarks, or KPIs, require that complainants be interviewed within ninety days of the investigation being opened. If further cooperation from the complainant is not required, the IDA will proceed with an investigation notwithstanding the withdrawal of a complaint.

Review of Material Settlements
In addition to the requirement for Members to file complaint information in COMSET, Members must also input into COMSET all securities related proceedings or disciplinary actions, including civil claims and arbitration notices that the Member is named in as a respondent, or a defendant. The Member only has access to the COMSET information that they submit, however, the IDA has access to all of the information Members submit. See Appendix # 4, for a copy of Policy 8 – Reporting and Recordkeeping Requirements.

Assessment

The amount of information being submitted to COMSET has exceeded expectations and the current challenge is to determine how best to monitor and utilize the abundance of information being gathered. COMSET's value as a risk management tool will be the subject of future discussions.

Member Regulation Notice MR-076 appears to have been effective. Based on staff interviews and the file reviews, the problem of complainants withdrawing complaints after settling with the firm does not appear to be an issue anymore. Investigators stated that they try to interview complainants as soon as they can. The audit file reviews did not reveal any recent examples of serious allegations being closed due solely to a lack of cooperation from the complainant.

8. Organizational Structure

Previous Audit Findings

The 2000 BCSC audit determined that the IDA's organizational structure relied heavily on personnel in Toronto for input into Investigations. There were concerns about the Director of Investigations in Toronto's familiarity with local issues. Also, there was confusion about the role of the Director of Pacific Region in Investigations. The overall structure appeared to have an unnecessary centralization of authority.

Both the 2000 BCSC audit and the Chambers Report noted the inherent conflict in the IDA's dual role as a Self Regulatory Organization (SRO) and a trade association. The 2000 BCSC audit found examples of this conflict in the Director of the Trade Association's role. The Director of the Trade Association participated in some investigation and/or enforcement activities, such as conference calls regarding decisions on enforcement actions and meetings with the BCSC, and also had a role in the selection of Pacific District panel members. The Chambers Report noted that to be successful, there must be no appearance of undue influence by Members in the IDA's regulatory activities.

Recommendations

- Ensure the independence in appearance and fact of Member Regulation including the Enforcement Division. *(Chambers Recommendation # 10)*.
- Clarify and resolve the informal reporting relationships in the Regions to ensure independence, accountability and authority are well defined. *(Chambers Recommendation # 13)*
- Ensure that the Director, Trade Association, Pacific District plays no role in the enforcement process, due to the perceived conflict between the Trade Association and the regulatory functions of the IDA. *(BCSC Recommendation # 37)*
- Introduce a more flattened management structure, with improved local accountability. *(Chambers Recommendation # 11)*
- Create the position of Regional Director, Enforcement in Pacific Region and select candidates by interview. *(Chambers Recommendation # 12)*
- Staff a new Regional Director position, replacing the current position of Director, Member Regulation, reporting directly to the Senior Vice-President, Member Regulation, to carry out the IDA's regulatory responsibilities (not including trade association matters) in the Pacific District. (*BCSC Recommendation # 32*)
- Remove unofficial reporting lines and ensure that there is a local senior manager who has the knowledge and ability to make decisions regarding investigation files. The IDA should establish clear reporting lines to the Regional Director from the senior functional positions in the District and internal procedures to minimize the risk of undue influence. (*BCSC Recommendation # 33)*

- The Regional office should set their own investigative priorities as they have the best understanding of the local market. The IDA – Pacific District should have operational autonomy in respect of file opening and closing decisions, other than file closing due to settlements that, like any recommendation for enforcement proceedings, should be subject to head office oversight to ensure consistency in recommended sanctions. (*BCSC Recommendation # 34*)
- The Regional Director, Pacific District should be responsible for reviewing investigation reports and assigning files to enforcement counsel. *(BCSC Recommendation #35)*
- Enforcement Counsel should report to the Regional Director, Pacific District, who should be responsible for determining, in consultation with counsel, recommended enforcement action and for obtaining the agreement of the Vice-President, Enforcement and the Senior Vice-President, Member Regulation. *(BCSC Recommendation # 36)*

IDA Action Taken

IDA Action - Chambers Recommendation # 11
IDA Action - Chambers Recommendation # 12
IDA Action - Chambers Recommendation # 10, #11, #12 and # 13
IDA Action -BCSC Recommendation #32 and BCSC Recommendation #33
IDA Action - BCSC Recommendation #34
IDA Action - BCSC Recommendation #35
IDA Action - BCSC Recommendation #36
IDA Action - BCSC Recommendations #34, 35 and 36
IDA Action - BCSC Recommendation #37

Regional Autonomy
The IDA undertook key changes to the organizational structure by giving the Pacific Regional office autonomy to address regional concerns. In July 2001, Warren Funt was appointed to the position of Vice President, Member Regulation of Western Canada, reporting directly to the Senior Vice President, Member Regulation in Toronto. Mr. Funt's duties include the management of the day to day affairs of Member Regulation services in the Prairie and Pacific districts. Member regulation operations include Enforcement, Financial Compliance, Sales Compliance and Registration.

Mr. Funt is also responsible for communicating with securities commissions in western Canada with respect to the terms and conditions of recognition, the reporting requirements and the decision-making processes within Member Regulation. An important part of his corporate responsibilities is to bring regional issues and expectations to the national member regulation standards for policy development, Enforcement, Sales Compliance, Financial Compliance and Registration.

The IDA maintains that the new reporting structure allows for greater autonomy to the Pacific Regional office. The changes allow for frequent consultation at all levels of the organization but key decisions are made in British Columbia. Two levels of management must agree to open or close a case to ensure that controls are maintained. If there is a difference of opinion, between a manager and the Vice President, Western Canada, or between the Vice President, Enforcement and the Vice President Western Canada, the Senior Vice President, Member Regulation in Toronto makes the decision.

Conflict between Member Regulation and Industry Relations and Representation
To manage the conflict between the IDA's role as a Self-Regulatory Organization and an industry trade association, the new reporting structure separates the functions of the Member Regulation and Industry Relations and Representation Divisions (formerly known as the Trade Association). There are Senior Vice President positions for the Member Regulation and Industry Relations and Representation Divisions. Both positions are in Toronto. The Pacific Regional Director, Industry Relations and Representation, Glenn Knowles, reports to the Senior Vice President, Industry Relations and Representation in Toronto.

The IDA asserts that the Pacific Regional Director, Industry Relations and Representation, has no role in Enforcement activities. The one area where the two divisions may play a role is policy development, however, the IDA Board of Directors have the final decision in policy matters.

The process for choosing members of the panel was modified to ensure that the Pacific Regional Director has no role in panel selection. The system for choosing panel members is outlined in the IDA By-laws and is summarized in a letter from Joseph Oliver to Steve Wilson dated March 20, 2002 – Page 5.

See Appendix # 6 for the IDA's national organization chart last revised on November 13, 2002

Assessment

The new organizational structure appears to address the concerns identified in the 2000 BCSC audit and the Chambers Report. The Pacific Regional office now has sufficient autonomy to allow it to focus on regional priorities and the organizational structure appears to be effective in keeping the lobbying or trade association functions separate from Enforcement processes.

9. Cooperation and Coordination with other Self Regulatory Organizations.

Previous Audit Findings

Cooperation with CDNX
The 2000 BCSC Audit looked at the extent of cooperation between the then Canadian Venture Exchange (CDNX) and the IDA. The IDA acknowledged that communication and cooperation with other regulators was an area needing attention. The fact that no files were referred from the CNDX to the IDA during the review period buttressed our concerns that this lack of cooperation was a potential regulatory gap.

Cooperation with other Regulators
Both the 2000 BCSC audit report and the Chambers Report stressed the importance of cooperation with other regulators. The reports stated that the IDA must maintain contact with other regulators to ensure that it is being proactive in identifying member misconduct and that it is an active participant in discussions about the development of improved practices and standards.

Recommendations

- Coordinate with CDNX to ensure all files dealing with member conduct are being appropriately handled and that CDNX is sharing that information regarding member conduct. *(BCSC Recommendation # 38)*
- Meet on a regular basis with CDNX to discuss new files and existing files to determine who has jurisdiction over the matter. *(BCSC Recommendation #39)*
- Be more proactive by working with other regulators to improve the preventative and detective aspects of enforcement including identifying cases of Member misconduct where there has been no complaint. *(Chambers Recommendation # 6)*
- Maintain contact with other regulators as an active participant in discussions about the development of improved practices and standards. *(Chambers Recommendation # 8)*
- Coordinate with other regulators in efforts to detect patterns of undesirable behavior and maximize the overall effectiveness of the regulatory community. *(Chambers Recommendation # 30)*

IDA Action Taken

IDA Action - BCSC Recommendation # 38 BCSC Recommendation #39 and Chambers Recommendation # 30
Information sharing and case referrals between the then CDNX and the IDA was governed by agreements entered into when CDNX gave up its member regulation functions. The IDA described their relationship with CDNX as informal but close. They exchanged monthly reports of all cases to ensure that the two organizations were coordinating their investigation efforts and the Manager of Investigation at the IDA met his counterpart at CDNX on approximately a quarterly basis. No minutes were taken at these meetings. Both organizations had frequent telephone conversations to discuss information and share ideas.

IDA Action - Chambers Recommendation # 6 and Chambers Recommendation # 8
The IDA acknowledges the importance of preventive and detective aspects of the enforcement process through the development of relationships with other regulators. Several committees and meetings with other regulators and police agencies have taken place and continue to take place on an ongoing basis. Examples of these committees and meetings are as follows:

- The SRO Regulation Services Group comprised of the IDA, TSE, Bourse de Montreal and the MFDA.
- The quarterly Oversight Committee meetings with the British Columbia Securities Commission.
- Participation in the MICA development project with the BCSC, the ASC, the OSC, the CVMQ, the RCMP and the TSE.
- Participation in the Securities Enforcement Resources Committee.
- Participation in working jointly with the BCSC
- Membership in the Joint Agency Intelligence Liaison Committee.

Audit Findings

Joint Investigations
Currently there is one IDA/BCSC joint investigation.

Division of SRO Responsibilities
The division of responsibilities between the SROs has changed significantly since the 2000 BCSC audit. TSX-Venture Exchange (TSX –V) is responsible for listed company regulation, Market Regulation Services Inc. (RS) for market regulation (trading) and the IDA for member regulation.

Cooperation with other Regulators – Canadian Venture Exchange/TSX Venture Exchange Referrals
The Canadian Venture Exchange (CDNX) referred eight matters to the IDA in 2001. One of the referrals was a market related case, one was a conduct related case, and six were Inter Market Surveillance Group (ISG) requests.

There is limited information coming to the IDA from the TSX V. At the investigations level, IDA staff do not meet with anyone at the TSX-V but Investigation staff assumed that the Vice President, Member Regulation, Western Canada, Warren Funt, would attend such meetings.

Cooperation with other Regulators - Market Regulation Services Inc. Referrals
RS referred thirty files to the IDA in 2002. Of the thirty files, twenty-six were ISG requests and four were conduct and/or market investigations. RS provides monthly reports to the IDA.

Assessment

The IDA now has a number of formalized processes in place to facilitate cooperation and communication with other regulators. The statistics indicate that files are being referred to the IDA. It is not surprising that there is limited information coming from TSX-V given that RS assumed market regulation responsibilities in March 2002.

10. Technology - Computer Systems and Databases

Previous Audit Findings

The Chambers review found that the Enforcement databases made it difficult to effectively track and manage files. The databases were unable to track the status of complaints, investigations and prosecutions and to manage information.

The 2000 BCSC audit concluded that the IDA should obtain read only access to the Intelligence Reference Indexing System (IRIS) database.

Recommendations

- Implement a case management system with a focus on functionality and early implementation. *(Chambers Recommendation # 32)*
- Complete the review of existing data for integrity. *(Chambers Recommendation # 33)*
- Use a document database, instead of a document management system, for those large investigations where the document control is complex. *(Chambers Recommendation # 34)*
- Develop a web-enabled national registration database similar to CRD at NASDR, to assist in accumulating and analyzing complaint and discipline information. *(Chambers Recommendation # 35)*
- Introduce a time capture system that will permit management to monitor where time is being invested and how much time is being spent on a particular file. *(Chambers Recommendation # 36)*
- Hire one analyst in Toronto with database design capability to provide the support critical to the management of complex investigations. *(Chambers Recommendation # 37)*
- Obtain desktop read-only access for its Pacific District investigators to both the IRIS database and to the enforcement intelligence database currently used by CDNX *(BCSC Recommendation #49)*

IDA Action Taken

IDA Action - Chambers Recommendation # 32 and # 33
The IDA implemented a case management database, known as the Case Tracking System (CTS) in June 2001. CTS reports provide monthly, quarterly, and annual reports that contain various statistics required by the Canadian Securities Administrators under the Oversight Agreement for the Enforcement Department. The following information is captured on CTS:

- Date a file is opened
- Name of complainant
- Name of Registrant
- Description of the matter and disposition
- Security levels and protection granting access; and
- Links to related files.

Ongoing enhancements are being made to the information on CTS, such as, capturing case summaries, benchmarks or Key Performance Indicators (KPIs).

Recently, the system was modified to permit access for the senior managers of the Sales and Financial Compliance Departments to the system for the purpose of identifying firms at risk. The latter modification permits senior managers of the Sales and Financial Compliance Departments limited access, but still provides sufficient information for their purpose and needs.

In August 2002, the document module was added to CTS to allow Enforcement staff to store electronically all internally prepared documentation in electronic format to a particular file. The result is that all correspondence, case summaries and related investigation/prosecution materials are now part of CTS and viewable by management and peers in the Enforcement Department. This permits managers to better monitor ongoing matters to ensure that KPIs are being complied with and that investigations and prosecutions are proceeding as they should. The system continues to evolve and it is hoped that it will eliminate much of the paper systems.

IDA Action - Chambers Recommendation # 34
The Member Regulation Oversight Committee (MROC) decided not to implement this recommendation.

IDA Action - Chambers Recommendation # 35
The National Registration Database (NRD) project will assist in accumulating complaint and discipline information. This project is being developed by the IDA's Registration Department in conjunction with the Securities Commissions.

IDA Action- Chambers Recommendation # 36
In April 2001 the IDA introduced Projeca, a time management system that was developed to track how time is spent on a particular file. Projeca allows management to monitor where enforcement staff time is being invested and it is useful in calculating Prosecution file costs.

IDA Action - Chambers Recommendation # 37
Instead of hiring a database technician, the position was converted to the COMSET data analyst. The IDA hired a COMSET analyst in Toronto who monitors and scans COMSET information. If the analyst finds anything of interest, she red flags it, prepares a memo and then she sends it to the appropriate region.

IDA Action - BCSC Recommendations #49
The IDA discussed with the CDNX the possibility of obtaining access to the CDNX databases. The IDA ultimately decided that this information would be of little value to them as the CDNX database was market focused. Also, the technical and legal hurdles of gaining access were greater than the perceived benefits.

Access to the IRIS system was considered but to accomplish their enforcement and registration goals, the IDA decided there may be other systems of greater benefit. The IDA still conducts IRIS checks through requests to the IDA office in Toronto.

Assessment

IDA Databases
The IDA's new database and computer systems have greatly improved the accessibility and coordination of information. All Enforcement staff use Projeca to track their time for files, phone calls, vacation and sick leave. Staff's only complaint about Projeca is that it can be difficult to navigate.

CTS's document management system, when fully implemented, will allow staff to view all internally prepared documents within CTS including any word document used in a file. A future objective of CTS is to help keep track of KPIs. One criticism of CTS is that it is a little slow and it occasionally freezes.

In terms of its usefulness as a management tool, it is still early days for CTS so it is difficult to assess if it is useful for things like monitoring KPIs. A limitation of CTS is that it does not contain information prior to its implementation date of June 2001. Therefore, the IDA must rely upon its old system, ACCESS, for checking information prior to June 2001.

Information Sharing

Given the numerous changes to the regulatory environment, it can be difficult to track the disciplinary history of firms and individuals. In the long term, consideration should be given to greater information sharing between regulators and ultimately, consolidation of certain databases. Some areas that the IDA should consider:

- Work with other SROs to implement a consolidated disciplinary database for all SRO actions.
- Discuss the possibility of including individuals disciplined by the IDA to the BCSC's Disciplined Persons List.
- Discuss with the BCSC the possibility of increasing the IDA's access to information in the BCSC's SCAN database.

Access to IRIS

The decision not to obtain limited access to the IRIS database appears reasonable.

11. Processes, Policies and Procedures

Previous Audit Findings

The 2000 BCSC audit and the Chambers review concluded that the IDA did not have procedures in place to monitor important marketplace events. There were no policies and procedures manuals for CCB, Investigations or Prosecutions until 2000. The Chambers Report pointed out that no information on the discipline process was available to give to subjects to assist in understanding the process.

Recommendations

- Develop procedures to monitor relevant marketplace events, e.g. reviewing statements of claim, in order to ensure timely enforcement action. *(BCSC Recommendation #40)*
- Adopt general procedures and policies for the Enforcement Division in a fashion similar to NASDR and then take the added step of issuing bulletins where new issues require particular attention. *(Chambers Recommendation # 26)*
- Implement procedures guidelines for CCB and Investigations. *(Chambers Recommendation # 27)*
- Complete the Enforcement Manual. (BCSC *Recommendation # 44)*
- *(Chambers Recommendation # 28)*
- Develop information on the enforcement process that can be communicated to subjects of investigation. *(Chambers Recommendation # 31)*

IDA Action Taken

IDA Action - BCSC Recommendation # 40
The IDA staff member responsible for monitoring relevant marketplace events will contact the head of the Surveillance Intelligence Unit (SIU) of the Enforcement Division of the BCSC to discuss the most efficient manner in which this information can be exchanged. The SIU is responsible for, among other things, for accumulating information regarding market participants who have previously violated securities rules.

A key part of the IDA's approach to monitoring events and file generation revolves around COMSET. As mentioned in section 7 of this report, COMSET and IDA Policy 8 require Members to report claims and settlements that meet certain criteria. The IDA plans to use the information in COMSET for Enforcement initiatives and also for the risk assessment process used for scheduling Sales Compliance reviews.

IDA Action - Chambers Recommendation # 26, # 27 and # 28, BCSC Recommendation # 44.
The Enforcement Department has prepared four policies and procedures manuals:

- A general Policies and Procedures Manual
- A Complaint Policies and Procedures Manual
- An Investigation Policies and Procedures Manual
- A Prosecutions Policies and Procedures Manual

The four Enforcement policies and procedures manuals were tested with staff to ensure accuracy, completeness and clarity. These manuals also form the basis of the IDA's training materials. As policies and procedures are amended, these manuals will be updated to reflect the changes.

IDA Action - Chambers Recommendation # 31
A guide for the subjects of investigations is now available under the Enforcement section of the IDA's website. The guide provides subjects of an investigation with a brief overview of the IDA's investigatory powers and enforcement process.

Assessment

SIU Contact
The IDA established contact with the SIU Unit at the BCSC to obtain court registry reports that relate to member firms. The SIU forward reports to the Manager of Investigations.

Statements of Claim must be reported to the COMSET database and also filed with the IDA's Registration Department. The Registration Department in turn forwards all statements of claim to the CCB.

Policies and Procedures Manuals
The four new Enforcement Manuals are very complete. The only noted deficiency was the absence of procedures for criminal investigations. The Policies and Procedures manual suggests that all criminal matters should immediately be brought to the attention of the Manager of Investigations or higher, but there is no further information.

IDA staff stated that if CCB or Investigation had to deal with a criminal matter, they would contact Michael Haddad, Director of Investigations, in Toronto. If the matter is serious enough, IDA staff will take the matter to the RCMP. The Polices and Procedures Manuals should be updated to include some guidance on criminal matters.

File Procedures and Processes - KPIs

Some of the KPIs defeat the intended purpose. For example there is a requirement for Investigations and Prosecutions to send complainants a letter after sixty days (recently extended from forty-five days) to update them. The purpose of the letter is to let complainants know that the file is still under review. The problem is, the letter provides so little information that complainants end up calling the IDA as the appearance of the letter makes them think that something of significance may have occurred.

Some staff prefer to call the complainant when they receive the file and advise complainants that they can call at any time if they have questions. The KPIs should be revised to include the choice of either sending a letter, or making a telephone call to the complainant. The telephone calls should be documented in the file. This seems like a more personal and practical approach. The overall goal of the policies make sense, perhaps the means of achieving them should be more flexible.

In Investigations, one year to conclude an investigation is reasonable in most cases. One KPI that can be difficult to meet is the requirement to notify all parties involved in an investigation that an investigation has commenced. The KPI requires that a letter be sent within five days. Perhaps ten days or two weeks would be more reasonable as sometimes it is difficult to immediately identify the parties who will be investigated. For example, investigators must determine if the branch manager will be part of the investigation. This can't always be done without investigating the matter first to determine the extent of the branch manager's involvement.

Another KPI that can be difficult to meet is the CCB KPI requirement to send document requests out to firms within seventy-two hours of receiving a complaint. Sometimes this is just not possible because more information is required from the complainant.

In terms of who monitors KPIs, most staff are not certain who reviews them. Investigation staff thought that IDA staff in Toronto review them but they were not sure.

12. Documentation in Investigation Files

Previous Audit Findings

The 2000 BCSC audit found inconsistent documentation in investigation files. Older files did not document management input, however, more recent files showed more structure with investigation plans and continuation reports.

Recommendations

- Document all significant management input, such as, revisions on investigation reports and plans and instructions regarding investigative direction and actions taken. *(BCSC Recommendation # 45)*
- Ensure that all files are properly and consistently documented. *(BCSC Recommendation # 45)*

IDA Action Taken

IDA Action - BCSC Recommendation #45
Investigators use investigation plans and continuation reports to document important information in Investigation files. The IDA captures management input in investigation reports and investigative direction is documented and retained by the Manager of Investigations.

Assessment

The newer files reviewed in the audit were generally well documented. In the newer files, management input into investigations was reflected in notes to the file and in the continuation reports. Most of the newer files contained:

- Investigation Plans
- Investigation Reports
- Investigator Note Book – provides chronological order/account of file activities
- Continuation Reports – provides more substantial detail and information than Note Book.
- Evidence of Management direction or decisions in memos

Most of the file documentation deficiencies were found in the older files. Of the forty files reviewed, file documentation deficiencies included:

- Two files that did not document the reasons why the files were being closed with caution letters.
- Two files that did not document when they were assigned to an investigator.
- One file that did not document why it was inactive for two years.
- One file that did not provide any rationale for removing a respondent from strict supervision.
- One file that did not provide reasons for failing to adopt Enforcement Counsel's original recommendation to pursue a settlement.

13. Investigative Tools

Issues

The Chambers report highlighted the IDA's lack of power to compel documents or obtain a statement from parties who must provide evidence. By–law 19.1 authorizes staff to conduct investigations into a non–registered employee of a Member but they have no authority to compel the production of documents or a statement.

Members were challenging the part of By-law 19.5 that requires the IDA to state the relevance to the matters being investigated. Members were disputing what is relevant by using tactics such as reliance on the solicitor-client privilege argument. When a Member firms took this position, the IDA had only two options:

- Attempt to convince the party of the relevance
- Charge the party with failing to comply with a request for production. This results in a request to the hearing panel to decide if failure to respond is a regulatory violation.

Recommendations

- Amend By-law 19.1 to compel the production of documents or provision of a statement by employees of a member. (*Chambers Recommendation # 1*)
- Amend By-law 19.5 to eliminate the requirement for relevance in the production of books, records and accounts. (*Chambers Recommendation # 2*)

IDA Action Taken

IDA Action - Chambers Recommendations #1 and # 2.
The IDA amended By-Law 19 – Examinations and Investigations on April 11, 2001. Attached as Appendix # 7, is an IDA Bulletin dated October 9, 2001 outlining the changes to By-law 19 and a copy of By-Law 19. As well, By-law 19.5(b) was amended to eliminate the requirement for relevance in the production of books, records and accounts.

Request for Expansion of Powers
In May 2002, the IDA, RS and the Mutual Fund Dealers Association (MFDA) put forward a proposal to amend the Uniform Securities Act. The purpose of the amendment is to enhance the SRO's statutory powers to:

- Maintain jurisdiction over current and former Members, including directors, officers, partners and employees;
- Compel witnesses to attend and to produce documents for investigations and disciplinary hearings;
- File decisions of disciplinary panels as decisions of the court;
- Provide statutory immunity for SROs and their staff from civil liabilities arising from acts done in good faith while conducting their regulatory responsibilities; and
- Seek a court order to monitor firms that are chronically and systematically non-compliant, close to insolvency, or for other appropriate public interest criteria.

Assessment

Staff have found that most firms are extremely cooperative and timely in providing requested documents. Overall, the change to By-law 19 has been positive but not significant. Amendments to the IDA's statutory powers would further enhance the IDA's regulatory effectiveness.

14. Investor Education and Protection

Previous Audit Findings

The Chambers Report stressed the importance of the IDA's mandate to ensure investor confidence and informed participation of investors in Canada.

Recommendations

- Emphasize investor protection in any public communication including the IDA website to ensure that the public fully understands the IDA's principal objective of investor protection and, where appropriate, the role of the Enforcement Division. *(Chambers Recommendation # 5)*

IDA Action Taken

IDA Action - Chambers Recommendation #5.
The IDA now has an Investor Corner section of its web site. This section includes a section for Frequently Asked Questions (FAQs) and information about investor protection and education, as well as information about the Canadian regulatory landscape.

Assessment

This issue has been resolved.

15. Focus on Losses

Previous Audit Findings

The IDA placed significant emphasis on client losses as a factor in an investigation. This may not be appropriate in all cases. The 2000 BCSC audit found that in some suitability investigations, investigators tended to focus on the outcome of the investment (did the client lose money and how much) as opposed to the potential risk that the client faced by being put into the investment in the first place. Also, in some discretionary trading investigations, the investigators reasoned that discretionary trading that did not have a negative result was less egregious than if the client lost money.

Recommendations

- No specific recommendations were made in previous audits.

Assessment

There were two older files that focused inappropriately on client losses versus suitability. These two files were open Prosecution files that were first investigated in 1998. Otherwise, this issue does not appear to be a problem anymore.

Important Dates

- 1995- IDA assumes member regulation from TSE in 1995
- January 2000 - CDNX transfers member regulation to IDA
- January 1, 2000 to October 31, 2000 - Audit review period
- June 2001 - Case Tracking System (CST) Reports commence
- August 1, 2001 The Toronto Stock Exchange completed its acquisition of TSX Venture Exchange with the two markets operating as on entity.
- September 2001 - Balanced Scorecard introduced
- March 1, 2002 - Market Regulation Services Inc. is recognized as an SRO.
- April 1, 2002 - Universal Market Integrity Rules (UMIR) are approved.

List of Acronyms

BCSC	British Columbia Securities Commission
CCB	Central Complaints Bureau
CDNX	Canadian Venture Exchange
COMSET	Complaints and Reporting Settlement System
CTS	Case Tracking System
FAQs	Frequently Asked Questions
IDA	Investment Dealers Association
KPI	Key Performance Indicators
MFDA	Mutual Fund Dealers Association
RS	Market Regulation Services Inc.
SCD	Sales Compliance Division
SIU	Surveillance Intelligence Unit
SRO	Self Regulatory Organization
MFDA	Mutual Fund Dealers Association
MR	Member Regulation
MROC	Member Regulation Oversight Committee
MEMBER	IDA Member Firm
NRD	National Registration Database
UTN	Uniform Termination Notice

List of Appendices

Appendix #	Description
1	IDA Disciplinary Actions – 2000 to 2002.
2	List of Key Performance Indicators (KPIs).
3	Guidelines for Referring Sales Compliance Issues to Enforcement from IDA of Toronto.
4	Bulletin #3051 dated September 25, 2002 – By-Laws and Regulations Policy 8.
5	Member Regulation Notice, MR-076 (Amended) dated May 22, 2001
6	Organization Chart for IDA, last revised November 13, 2002.
7	Bulletin #2891 dated October 9, 2001, IDA By-law 19 and a copy of IDA By-law 19.

Appendix # 1

2000

IDA Hearings and Settlements
January 2000 to December 2000

Date	Type of Action	Individual or Firm	Sanction	Nature of Violations
April 5/00	Settlement	Midland Walwyn Capital Inc. (Merrill Lynch Canada Inc.)	$25,000 Fine $11,000 Disgorgement $5,000 Costs	Failure to Supervise
April 13/00	Settlement	Midland Walwyn Capital Inc. (Merrill Lynch Canada Inc.)	$25,000 Fine $2,000 Costs	Failure to Supervise, Failure to adhere to Internal Policies and Procedures
April 5/00	Settlement	James Paul Dunlop	$15,000 Fine $2,500 Costs Exam Re-Write	Failure to Supervise
Sept. 8/00	Settlement	Ian Scott-Moncrieff	$15,000 Fine, $6,500 Costs Exam Re-Write	Unsuitable Investments, Discretionary Trading
Sept. 7/00	Settlement	James Donald Wooster	$12,000 Fine $2,000 Costs Exam Re-Write	Unsuitable Investments
Sept. 7/00	Settlement	Gary Stewart Brookes	$500 Costs	Unsuitable Investments
Oct. 3/00	Settlement	Robert William Stevenson Beaty	$19,000 Fine $3,000 Costs Exam, Re-Write	Unsuitable Investments, Participation in an Illegal Distribution

2001

IDA Hearings and Settlements
January 2001 to December 2001

Date	Type of Action	Individual or Firm	Sanction	Nature of Violations
Jan. 17/01	Settlement	Rubina Khan Ahmed	$24,500 Fine $6,850 Costs Exam Re-Write	Discretionary Trading, Conduct Unbecoming, Improper 3rd Party Trans.
Mar. 26/01	Settlement	James Archibald Cumming	$5,000 Fine $1,000 Costs Exam Re-Write	Conduct Unbecoming
Mar. 26/01	Settlement	Gayle MacKay	$5,000 Fine $1,928 Costs Exam Re-Write	Unsuitable Investments
July 24/01	Settlement	John Anastasios Xinos	$20,000 Fine $2,520 Disgorgement $5,000 Costs Exam Re-Write	Conduct Unbecoming
July 24/01	Settlement	Bruce William Stuart	$7,500 Fine $2,500 Costs Exam Re-Write	Failure to Supervise
July 24/01	Settlement	Peter Leighton Miles	$7,000 Fine $2,000 Costs Exam Re-Write	Unsuitable Investments
Sept. 12/01	Settlement	Grant Linus Schnurr	$12,000 Fine $3,350 Costs Exam Re-Write	Discretionary Trading, Unsuitable Investments
Oct. 31/01	Settlement	Richard Nyren	$10,000 Fine $1,000 Costs 6 mo. Close Supervision Exam Re-Write	Conduct Unbecoming
Nov. 13/01	Settlement	Gerald Grant Stone	$15,000 Fine $3,500 Costs 3 mo. Suspension Exam Re-Write	Discretionary Trading, Unsuitable Investments
Nov. 15/01	Discipline Penalties	Douglas Bruce Robb	$50,000 Fine $9,329 Costs Perm. Reg. Ban	Failure to Cooperate with IDA
Dec. 6/01	Discipline Penalties	Dwayne William Strocen	$15,000 Fine $10,000 Costs Registration Rest. Close Supervision 2 Exam Re-Writes	Unauthorized Trading

IDA Hearings and Settlements
January 2002 to December 2002

Date	Type of Action	Individual or Firm	Sanction	Nature of Violations
Feb. 21/002	Settlement	Richard Douglas Fee	$10,000 Fine $2,750 Costs Exam Re-Write	Discretionary Trading
Mar. 15/02	Settlement	Ronald Alan McQuarrie	$15,000 Fine $3,000 Costs Exam Re-Write	Discretionary Trading
May 22/02	Settlement	Blair Douglas Wood	$15,000 Fine $3,200 Costs Strict Supervision Exam Re-Write	Unsuitable Investments
Oct. 2/02	Settlement	Stewart Douglas Loughery	$38,000 Fine $15,000 Costs Reg. Pro. 3years Exam Re-Write	Discretionary Trading Unsuitable Investments
Dec. 12, 2002	Settlement	Gwendolyn Faye Quen Chan	Restitution Costs waived in amended Settlement	Unsuitable Investments, Conduct Unbecoming

Appendix # 2

Key Performance Indicators

Department	Requirements
Complaint Inquiries Department (CCB)	▪ Acknowledge a complaint within 2 business days of receipt of the complaint;
	▪ Request written documentation from the Member firm within 3 business days of receipt of the complaint;
	▪ Update the complainant on the status of our review within 45 days of the receipt of the complaint; and
	▪ Resolve the complaint within 75 days of the receipt of the complaint.
Investigations	▪ Send out opening letters within 2 business days of the approval of the investigation by management,
	▪ Interview the complainant(s) within 90 days of the investigation being opened;
	▪ Send the complainant a written update within 90 days of the investigation being opened and every sixty days thereafter,
	▪ Inform the member firm at least two business days in advance of an employees interview
	▪ Complete standard investigation within one year otherwise obtain the approval from the VP Enforcement or VP Western Canada; and
	▪ Complete all investigations within two years otherwise obtain the approval from Senior Vice President, Member Regulation.
Prosecutions	▪ Communicate status (without divulging confidential information) to the Complainants/Referring Agency at 60 day intervals thereafter, until the matter is resolved;
	▪ Advise the Complainants/Referring Agency within 30 days of receiving a case that the case has been assigned and that the matter is being reviewed for possible disciplinary action;
	▪ Issue a Notice of Hearing, or obtain a signed Settlement Agreement \ within 365 days of being assigned a file, or issue a warning letter within 90 days of being assigned a file; and
	▪ Within 365 days, Enforcement Counsels are to have closed the majority of all case files assigned.

SALES COMPLIANCE - CLASSIFICATION GUIDELINES FOR DEFICIENCIES / RISK OF ADVERSE CONSEQUENCES

Judgment as to the risk that the non-compliance or violations discovered could result in harm to clients, the firm, other members or the reputation of the Association or the securities industry, either directly or through failure to prevent, detect or stop improper activity. Such judgment may take into account, singly or in combination as appropriate, the extent of possible harm or loss, the nature of the firm's business, clientele or personnel, the type of product(s) involved or the profile of the issue involved.

LEVEL OF NON-COMPLIANCE		High	Medium	Low
I SIGNIFICANT NON-COMPLIANCE AT FIRM OR BRANCH OFFICE LEVEL	Referral:	To Enforcement	To Senior Vice-President, Member Regulation, normally with recommendation to refer to Enforcement.	To Senior Vice-President, Member Regulation, with possible recommendation for referral to Enforcement, particularly for repeat findings.
Serious lack or disregard of compliance procedures required by Industry regulations, Including the By-laws and Regulations, Securities Acts and the Minimum Industry Standards for Retail Account Supervision.	Remedial requirement:	Demand for immediate or strictly time-limited rectification of deficiency.	Demand for immediate or strictly time-limited rectification of deficiency	Demand for time-limited rectification of deficiency.
or:				
Failure to take reasonable steps to rectify a Level II deficiency within the prescribed time following identification thereof in a Compliance Review.	Follow-up:	Monitoring of progress on time-limited demands and surprise item-specific in-office check after implementation of changes is reported.	Monitoring of progress on time-limited demands and surprise item-specific in-office check after implementation of changes is reported.	Follow-up check by telephone to ensure deficiency has been rectified and check in next compliance review
	Examples:	Failure to conduct monthly reviews of client account activity; Failure to implement internal controls ensuring the safeguarding of client funds and securities, proper documentation of accounts or proper settlement of accounts; Permitting non-registered persons to deal with the public; Permitting RR's to engage in serious violations of Regulations noted In II: Serious lack of supervision in any other matter as determined by Director Compliance.	Failure to conduct monthly reviews of employee account activity.	Failure to comply with money laundering legislation requirements.

Appendix # 3

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SALES COMPLIANCE - CLASSIFICATION GUIDELINES FOR DEFICIENCIES / RISK OF ADVERSE CONSEQUENCES

Judgment as to the risk that the non-compliance or violations discovered could result in harm to clients, the firm, other members or the reputation of the Association or the securities industry, either directly or through failure to prevent, detect or stop improper activity. Such judgment may take into account, singly or in combination as appropriate, the extent of possible harm or loss, the nature of the firm's business, clientele or personnel, the type of product(s) involved or the profile of the issue involved.

LEVEL OF NON-COMPLIANCE		High	Medium	Low
II INADEQUATE SYSTEMS OR PROCEDURES				
Incomplete procedures or enforcement of procedures; failure to properly document procedures; inadequate implementation of procedures.	Referral:	Possible referral to Enforcement (depending on Compliance Officer's judgment as to whether deficiency results from negligence or honest but inadequate or misguided effort).	None.	None.
	Remedial requirement:	Demand for immediate or strictly time-limited rectification of deficiency.	Demand for rectification of deficiency within a reasonable time limit to be negotiated with member.	Requirement for rectification of deficiency within a reasonable time limit to be negotiated with member, taking into account requirements for rectification of higher priority firms.
	Follow-up:	Monitoring of progress on time-limited demands and surprise item-specific in-office check after implementation of changes is reported.	Follow-up to at end of time limit to ensure deficiency has been rectified and check on next regular review.	Follow-up on next regular review
	Examples:	Activity reviews which frequently fail to detect obvious red flags: Lack of qualified personnel to conduct reviews.	Insufficient evidence of account activity reviews and follow-up (where reviews are being conducted).	Failure to follow up documentation deficiencies on a timely basis.

SALES COMPLIANCE - CLASSIFICATION GUIDELINES FOR DEFICIENCIES / RISK OF ADVERSE CONSEQUENCES

Judgment as to the risk that the non-compliance or violations discovered could result in harm to clients, the firm, other members or the reputation of the Association or the securities industry, either directly or through failure to prevent, detect or stop improper activity. Such judgment may take into account, singly or in combination as appropriate, the extent of possible harm or loss, the nature of the firm's business, clientele or personnel, the type of product(s) involved or the profile of the issue involved.

LEVEL OF NON-COMPLIANCE		High	Medium	Low
III INTERNAL CONTROL / SYSTEM RECOMMENDATIONS				
Recommendations for improved controls in systems that are functioning reasonably well, identification of areas of business risk.	Priority:	Not normally applicable, as high risk areas are covered by procedural and supervisory requirements.		
	Referral:	To Member Examinations if the risk is business risk.	None	None
	Remedial requirement:	Request for explanation of firm's : intentions and notification of any changes made.	Request for explanation of firm's intentions and notification of any changes made.	Reference in review letter on a "for your information or assistance" basis.
	Follow-up:	Follow-up during next compliance review	Follow-up during next compliance review	No follow-up.
	Examples:	Permitting R.R.'s to pick up cheques for delivery to clients	Permitting R.R.'s to receive and follow up on returned mail.	Use of control sheet to enhance evidence of conducting monthly reviews.

SALES COMPLIANCE - CLASSIFICATION GUIDELINES FOR DEFICIENCIES / RISK OF ADVERSE CONSEQUENCES

Judgment as to the risk that the non-compliance or violations discovered could result in harm to clients, the firm, other members or the reputation of the Association or the securities industry, either directly or through failure to prevent, detect or stop improper activity. Such judgment may take into account, singly or in combination as appropriate, the extent of possible harm or loss, the nature of the firm's business, clientele or personnel, the type of product(s) involved or the profile of the issue involved.

LEVEL OF NON-COMPLIANCE		High	Medium	Low
IV. VIOLATIONS BY INDIVIDUALS				
Violations of industry regulations limited to an individual or small group within a firm, such as trading violations, abusive dealings with client accounts or funds.	Referral:	To Enforcement.	To Senior Vice-President, Member Regulation, for possible referral to Enforcement.	Optional referral to Enforcement depending on Compliance Officer's opinion as to intent.
	Follow-up:	Review of reason for failure of supervision to identify and stop violation.	Review of reason for failure of supervision to identify and stop violation.	Review of reason for failure of supervision to identify and stop violation.
	Examples:	Fraud or theft, misrepresentation, forgery; manipulative or deceptive trading; front-running; churning	Systematic failure to identify non-client orders.	Low dollar amount free riding in personal account

GUIDELINES FOR REFERRING SALES COMPLIANCE ISSUES TO ENFORCEMENT

Following are guidelines regarding the matters that will normally be referred to Enforcement for investigation and possible disciplinary action.

If you find any of these violations during a Sales Compliance Review, you should report them to the Manager responsible for the firm or office and the Vice-President, Sales Compliance & Registration immediately.

While you must collect enough material to substantiate a finding and referral to Enforcement, any further work on the particular matter which could be characterized gathering of evidence for a disciplinary proceeding, should cease forthwith pending discussions with Enforcement. If in doubt, discuss the matter with the Sales Compliance Manager or Vice-President.

Referrals will be by way of memorandum from the Compliance Officer to the Vice-President, Enforcement, accompanied by copies of all relevant documents or working papers. At the end of the memorandum, there should be a space for the Vice-President, Sales Compliance and Registration's approval of the referral.

Where a matter is referred to Enforcement, it will nonetheless be included in the Sales Compliance Review Report as a finding with appropriate remedial action required and a notation that it has been referred to the Enforcement Division for further investigation.

I Member Firms, Branch Offices or Supervisors

Findings of any of the following at a member firm shall be referred to Enforcement where the violation appears to be intentional or to result from willful blindness or negligence:

1. failure to conduct retail account reviews as required by the Minimum Standards for Retail Account Supervision;
2. failure to implement internal controls ensuring the safeguarding of client funds and securities, proper documentation of accounts or proper settlement of accounts;
3. permitting non-registered persons to trade or deal with the public;
4. failure to take adequate steps to rectify problems identified in previous sales compliance reviews or abide by any undertakings made in response to previous sales compliance reviews;
5. failure to prevent registered persons from engaging in significant violations of IDA Regulations due to lack of proper procedures, training or supervision or inadequate operation of same;
6. significant failure of supervision in any other matter as determined by the Vice-President, Sales Compliance and Registration.

II Individuals

Findings of any of the following by an individual at a member firm shall be referred to Enforcement:

1. fraud or theft; misrepresentation to any client regarding any securities or the client's account;
2. misrepresentation to the firm regarding any client, activity in any client's account or activity in the individual's account;
3. forgery;
4. manipulative or deceptive trading;

INVESTMENT DEALERS ASSOCIATION OF CANADA

bulletin

ASSOCIATION CANADIENNE DES COURTIERS EN VALEURS MOBILIÈRES

Contact:
Belle Kaura
Enforcement Policy Counsel
(416) 943-5878

For distribution to relevant parties within your firm

BULLETIN #3051
September 25, 2002

By-Laws and Regulations
Policy 8

The Board of Directors approved amendments to Policy 8 June 17, 2002. The amendments serve to provide clear and effective reporting requirements.

Policy 8 and ComSet (Complaints and Settlement Database) are to be effective as of October 15, 2002.

Policy 8 deals with reporting and recordkeeping requirements. ComSet is a web-based database system through which Member Firms will be required to report certain Policy 8 matters. For further information, Members should refer to Member Regulation Notice #0162.

Policy 8 and ComSet will be used by the IDA in its risk-based approach to compliance and enforcement. Policy 8 and ComSet will assist the IDA in fulfilling its oversight function by improving its ability to identify areas for compliance review, areas where enforcement action is appropriate, industry problems, and regional issues.

Kenneth A. Nason
Association Secretary

TORONTO Suite 1600, 121 King Street West, Toronto, Ontario M5H 3T9 Telephone (416) 364-6133 Fax: (416) 364-0753
CALGARY Suite 2300, 355 Fourth Avenue S.W., Calgary, Alberta T2P 0J1 Telephone: (403) 262-6393 Fax: (403) 265-4603
HALIFAX Suite 1620, 1791 Barrington Street, Halifax, Nova Scotia B3J 3K9 Telephone: (902) 423-8800 Fax: (902) 423-0629
MONTRÉAL Suite 2802, 1 Place Ville Marie, Montréal, Québec, H3B 4R4 Téléphone: (514) 878-2854 Télécopieur: (514) 878-3860
VANCOUVER Suite 1325, P.O. Box 11614, 650 West Georgia Street, Vancouver, B.C. V6B 4N9 Telephone: (604) 683-6222 Fax: (604) 683-3491

POLICY NO. 8

REPORTING AND RECORDKEEPING REQUIREMENTS

Introduction

This Policy establishes minimum requirements concerning information that registrants are required to report to Members and information that Members are required to report to the designated self-regulatory organization ("SRO").

Members and registrants should also refer to the Uniform Application for Registration/Approval (or any form replacing the Uniform Application for Registration/Approval), which also sets out information that Members and registrants must report to their designated SRO.

Definitions

For the purposes of this Policy:

"business days" means a day other than Saturday, Sunday or any officially recognized Federal or Provincial statutory holiday.

"civil claim" includes civil claims pending before a court or tribunal.

"compensation" means the payment of a sum of money, securities, reversal of a securities transaction, inclusion of a securities transaction (whether either transaction has a realized or unrealized loss) or any other equivalent type of entry which is intended to offset or counterbalance an act of misconduct. A correction of a client account or position as a result of good faith trading errors and omissions is not considered to be "compensation" for the purposes of Policy 8.

"designated SRO" means the self-regulatory organization that has been assigned the prime audit jurisdiction for the Member under the Canadian Investor Protection Fund Agreement.

"exchange contracts" include, but are not limited, to commodity futures contracts and commodity futures options.

"legislation or law" includes, but is not limited to, any rules, policies, regulations, rulings or directives of any securities commission.

"misrepresentation" means:

i) an untrue statement of fact; or

ii) an omission to state a fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made.

"registrant" means any partner, director, officer or registered or approved person of a Member.

"securities – related" means:

(i) any matter related to securities or exchange contracts; or

(ii) any matter related to the handling of client accounts or dealings with clients; or

(iii) any matter that is the subject of any legislation or law concerning securities or exchange contracts of any jurisdiction, inside or outside of Canada; or

(iv) any matter that is the subject of by-laws, rules, regulations, rulings or policies of any securities or financial services regulatory or self-regulatory organization in any jurisdiction, inside or outside of Canada.

"service complaints" means any complaint by a client which is founded on customer service issues and is not the subject of:

i) any legislation or law concerning securities or exchange contracts of any jurisdiction, inside or outside of Canada; or

ii) by-laws, rules, regulations, rulings or policies of any securities or financial services regulatory or self-regulatory organization in any jurisdiction, inside or outside of Canada.

I. REPORTING REQUIREMENTS

A. REPORTING REQUIREMENTS TO MEMBER

1. Each registrant shall report to the Member, within two business days, whenever:

(a) there is any change to the information contained in his or her Uniform Application for Registration/Approval (or any form replacing the Uniform Application for Registration/Approval);

(b) he or she has reason to believe that he or she is or may have been in contravention of:

i) any provision of any legislation or law concerning securities or exchange contracts of any jurisdiction, inside or outside of Canada; or

ii) any by-laws, regulations, rules, rulings or policies of any regulatory or self-regulatory organization, professional licensing or registration body in any jurisdiction, inside or outside of Canada.

(c) he or she is the subject of any customer complaint in writing; or

(d) he or she is aware of a customer complaint, whether in writing or any other form, with respect to any other registrant involving allegations of theft, fraud, misappropriation of funds or securities, forgery, money laundering, market manipulation, insider trading, misrepresentation or unauthorized trading.

2. Each Member shall designate a person or department with whom the reports and records required by Part I Section A shall be filed.

B. REPORTING REQUIREMENTS TO DESIGNATED SRO

1. Each Member shall report to its designated SRO, in such detail and frequency as prescribed by the SRO:

(a) whenever there is any change to the information contained in the Uniform Application for Registration/Approval (or any form replacing the Uniform Application for Registration/Approval) of any registrant;

(b) whenever the Member, or any current or former registrant is charged with, convicted of, pleads guilty or no contest to, any criminal offence, in any jurisdiction, inside or outside of Canada, while in the employ of the Member, or concerning matters that occurred while in the employ of the Member;

(c) whenever the Member, or a current or former registrant, is:

(i) named as a defendant or respondent in, or is the subject of, any proceeding or disciplinary action alleging contravention of any legislation or law concerning securities or exchange contracts, of any jurisdiction, inside or outside of Canada, while in the employ of the Member, or concerning matters that occurred while in the employ of the Member;

(ii) named as a defendant or respondent in, or is the subject of, any proceeding or disciplinary action alleging contravention of the by-laws, regulations, rules, rulings or policies of any regulatory or self-regulatory organization, professional licensing or registration body in any jurisdiction, inside or outside of Canada, while in the employ of the Member, or concerning matters that occurred while in the employ of the Member; or

(iii) denied registration or a license by any regulatory or self-regulatory organization, professional licensing or registration body, in any jurisdiction, inside or outside of Canada, while in the employ of the Member.

(d) all customer complaints in writing, except service complaints, against the Member or any current or former registrant;

(e) all securities-related civil claims and arbitration notices filed, against the Member, or against any current or former registrant, in any jurisdiction inside or outside Canada, while in the employ of the Member, or concerning matters that occurred while in the employ of the Member;

(f) all resolutions of any matters reportable pursuant to I.B.1(b),(c),(d) and (e) of this Policy, including, judgements, awards, private settlements and arbitrations, in any jurisdiction, inside or outside of Canada;

(g) whenever a registrant is the subject of any internal disciplinary action where:

(i) there is a customer complaint in writing pursuant to Part I B. 1(d) of this Policy;

(ii) there is a securities-related civil claim or arbitration notice pursuant to Part I B.1(e) of this Policy;

(iii) there is an internal investigation pursuant to Part I B. 1(h) and Part II of this Policy;

(iv) member initiated disciplinary action involves suspension, termination, demotion or the imposition of trading restrictions;

(v) member initiated disciplinary action, arising from any source other than (i)-(iii), involves the withholding of commissions or imposition of fines in excess of $5,000 for a single matter, $15,000 cumulatively for a one calendar year period or where commission has been withheld or fines imposed three or more times during one calendar year period.

(h) whenever an internal investigation, pursuant to Part II of this Policy, is commenced and the results of such internal investigation when completed.

2. Documentation associated with each item required to be reported under Part I Section B shall be maintained and available to the designated SRO, upon request, for a minimum of 2 years from the resolution of the matter.

3. Where the designated SRO is the IDA, it shall have the power to impose a prescribed administrative fee for failure to comply with any of the reporting requirements set out in this policy. The IDA may also impose any other penalties pursuant to By-law 20.

II. INTERNAL INVESTIGATIONS

1. The Member shall conduct an internal investigation where it appears that the Member, or any current or former registrant, while in the employ of the Member, has violated any provision of any legislation or law, or has violated any by-laws, rules, regulations, rulings or policies of any regulatory or self-regulatory organization relating to theft, fraud, misappropriation of funds or securities, forgery, money laundering, market manipulation, insider trading, misrepresentation or unauthorized trading, in any jurisdiction, inside or outside of Canada.

2. Records of investigations under Part II Section 1 shall be:

(a) in sufficient detail to show the cause, steps taken and result of each investigation; and

(b) maintained and available to the designated SRO upon request for a minimum of two years from the completion of the investigation.

III. SETTLEMENT AGREEMENTS

1. No registrant shall, without prior written consent of the Member, enter into any settlement with a customer, whether the settlement is in the form of monetary payment, delivery of securities, reduction of commissions or any other form, and whether the settlement is the result of a customer complaint or a finding by the individual or Member. Such prior written consent and the terms and conditions of such shall be kept on record by the Member.

2. Part III Section 1 shall not apply to any registrant authorized by the Member to negotiate or enter into settlement agreements in the normal course of his/her duties with respect to settlement agreements that do not arise out of activities involving the registrant.

Appendix # 5

MEMBER REGULATION

INVESTMENT DEALERS ASSOCIATION OF CANADA

notice

ASSOCIATION CANADIENNE DES COURTIERS EN VALEURS MOBILIÈRES

Contact:
D. Wise: (416) 943-6994 – dwise@ida.ca

MR-076 (Amended)

May 22, 2001

ATTENTION:
Ultimate Designated Persons
Chief Financial Officers
Panel Auditors

Distribute internally to:

- ❑ Corporate Finance
- ❑ Credit
- ❑ Institutional
- ❑ Internal Audit
- ■ Legal & Compliance
- ❑ Operations
- ❑ Registration
- ❑ Regulatory Accounting
- ❑ Research
- ❑ Retail
- ❑ Senior Management
- ❑ Trading desk
- ❑ Training

Releases Entered Into Between Member Firms & Clients and Confidentiality Restrictions

This Notice sets forth the position of the Investment Dealers Association with respect to language that should not be included in releases entered into between Member firms and clients. This Notice is to assist Member firms in drafting these releases as to avoid using such prohibited language which may result in the Member firm facing disciplinary proceedings under the By-Laws, Regulations, Policies and Forms of the Association.

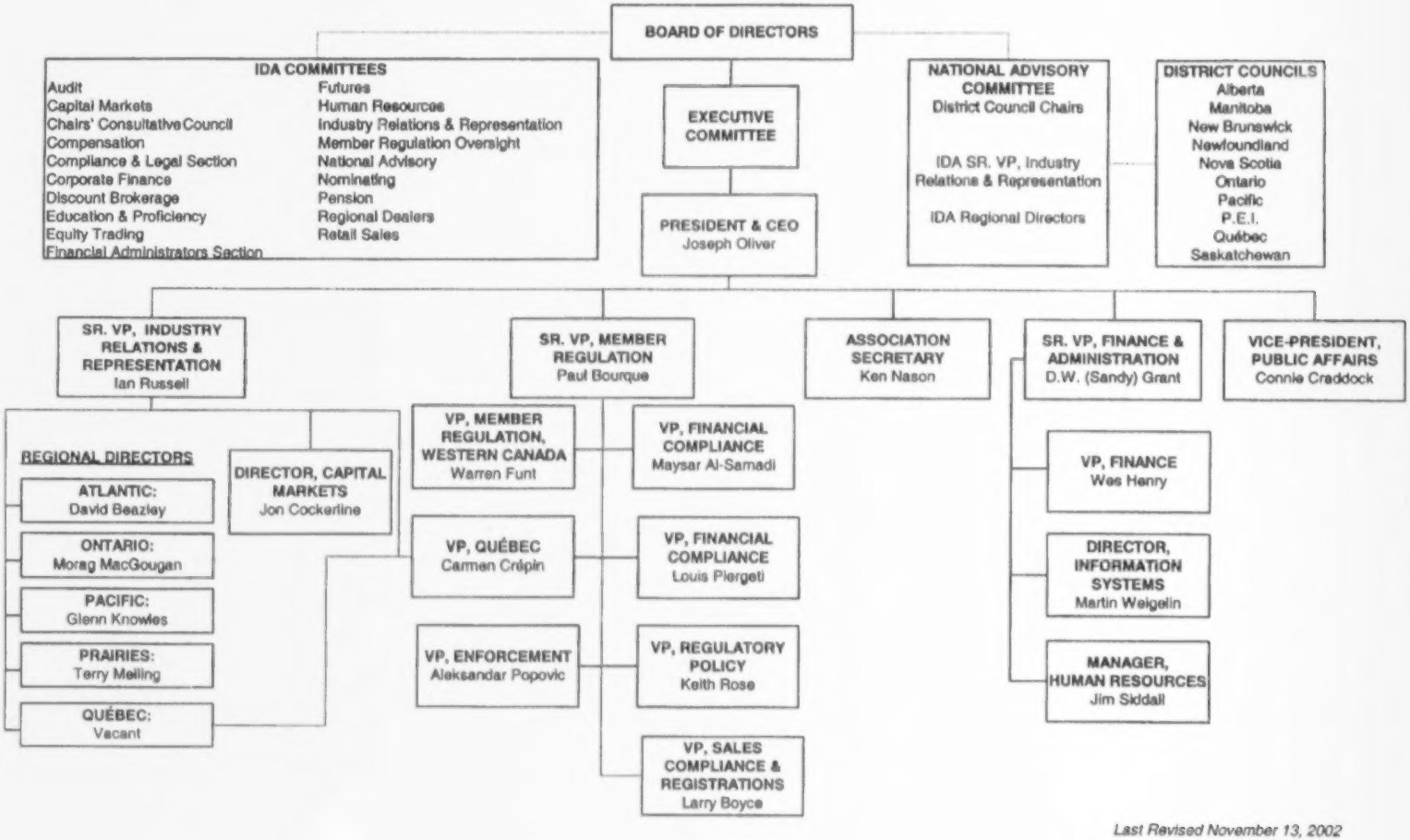
Member firms have raised issues as to what content should not be included in releases entered into between Member firms and their clients. Releases are generally entered into as part of the consideration in satisfaction of claims arising from client complaints concerning their accounts and client dealings with their sales representatives.

The Association's position in respect of the above types of releases is that releases shall not contain language which would prevent the client from disclosing to securities regulatory authorities, self regulatory organizations (including, but not limited to the Association) or other enforcement authorities the facts or terms of the settlement. In addition, the release shall not contain any language which prevents a client from initiating a complaint.

This limit on confidentiality clauses is necessary to allow the client the ability to initiate a complaint to the securities regulatory authorities, self regulatory organizations or other enforcement authorities whether or not a release has been signed, to continue with any pending complaint already in progress, or to participate in any further proceedings by such authorities.

In the event that any such release contains prohibited language as set out above, the Member firm may face disciplinary action for "conduct unbecoming".

INVESTMENT DEALERS ASSOCIATION OF CANADA



Last Revised November 13, 2002

Appendix # 6

INVESTMENT DEALERS ASSOCIATION OF CANADA

bulletin

ASSOCIATION CANADIENNE DES COURTIERS EN VALEURS MOBILIÈRES

Contact:
Belle Kaura
Enforcement Policy Counsel
(416) 943-5878

For distribution to relevant parties within your firm

BULLETIN #2891
October 9, 2001

By-Laws and Regulations
Amendments to By-law 19 – Examinations and Investigations

The Board of Directors of the Association has approved the attached amendments to By-law 19, to be effective immediately.

The rule change requires Member Firms to ensure employee compliance with By-law 19. The rule change also requires all parties listed at paragraph 1 of By-law 19.5 to produce for inspection and provide documents that the "Association determines may be relevant to a matter under examination or investigation". The existing By-law 19.5 requires the production of documents "relevant to matters being investigated".

The amendments to By-law 19.5 will serve to improve the effectiveness of IDA enforcement investigations by ensuring that evidence can be compelled from all relevant persons and that documents necessary for disciplinary action are collected without undue delays and disputes.

A copy of the amendment is attached.

Kenneth A. Nason
Association Secretary

Investment Dealers Association of Canada

Housekeeping Amendments to By-Laws Regarding Investigatory Powers

THE BOARD OF DIRECTORS of the Investment Dealers Association hereby makes the following amendments to the By-laws, Regulations, forms and Policies of the Association:

1. By-Law 19.1 is amended by adding the following words immediately following the first paragraph:

> "The Member shall require all employees to comply with By-law 19."

2. By-Law 19.5 is amended by adding the following words immediately following the word "investor":

> "or employee."

3. By-Law 19.5(b) is amended by replacing the existing 19.5(b) with the following paragraph:

> "19.5(b): to produce for inspection and provide copies of any books, records, accounts and documents, that are in the possession or control of the Member or the person, that the Association determines may be relevant to a matter under examination or investigation and such information, books, records and documents shall be provided in such manner and form, including electronically, as may be required by the Association."

PASSED AND ENACTED BY THE Board of Directors this 11th day of April 2001, to be effective on a date to be determined by Association staff.

June 27, 2003

Lang Evans
Director, Capital Market Regulation
British Columbia Securities Commission
PO Box 10142, Pacific Centre
5th fl. - 701 West Georgia Street
Vancouver, BC V7Y 1L2

Dear Mr. Evans:

Re: Enforcement Audit 2002

We appreciate the work and professionalism of the British Columbia Securities Commission ("BCSC") staff in preparing the Audit. We are pleased that the Audit recognizes the significant strides that the IDA has made.

Following, in order, is our response to the specific sections of the Audit Report:

1. Results

As indicated in the Audit, we too expect to see more cases that lead to formal discipline. We believe that the changes that have already been put in place will bear the expected results. Currently, there are five cases that are either awaiting a decision of a panel or are scheduled to be heard by a Panel. This is in addition to the five cases that have already been decided this calendar year. There is a risk in concentrating on the number of cases as an overall indicator of activity. It is part of the IDA's stated objectives to focus on larger, more complex cases, which will logically reduce the overall number of cases while increasing their significance. We also point out that considerable time has been spent, and more time is required, for a very large investigation underway in conjunction with BCSC staff. Projects such as this joint investigation will reduce our overall numbers although both organizations recognize the importance of such cases.

2. File Specific Issues

Assessment

We agree with the BCSC's assessment in this section.

Areas for Improvement

Investigations involving firms failure to supervise

We do not readily agree with the subjective findings of the five sample files. However, we will address the concerns about the processes that we use to determine the investigation and prosecution of supervisory failings by our members. From the period of the 2000 Audit to the 2002 Audit, the IDA was undergoing significant change which has been well described in this Audit. One of those changes has been to move from a complaint-driven model of investigations to a risk-based approach to member regulation. Specifically, this includes the assessment of complaints through file screening guidelines, the implementation of Comset, the implementation of a risk assessment by Financial Compliance and the imminent implementation of a risk assessment by Sales Compliance. The result is a two-pronged enforcement approach to supervision. At the micro level, every case that is investigated does include a review of supervision (Section 8 of our Investigations Procedures Manual). The other prong is the overall assessment of the firm. Senior management intuitively ranked the compliance culture of each firm in the past, which was relatively easy with only 21 head office firms in BC and 200 members of the IDA. The addition of more tools and structure will help. The link is found in the outcome of our sales and financial compliance reviews. More time is spent reviewing the higher risk firms. If there are significant deficiencies these should be detected and, if they are serious enough, will trigger a referral to enforcement. Furthermore, complaints received against higher risk firms may be assigned a higher priority. These procedures and initiatives are either in place or well developed. We cannot guarantee a specific quota of supervision cases will be brought forward. We do wish to ensure that the BCSC is satisfied with our current procedures.

Violation Patterns

We do not readily agree with the subjective findings on this point. However, we agree there is a need to join investigations. Our interpretation of the BCSC's comments is that there is no need to amend our procedures in this area.

File Closing due to a Registrant's departure from the industry

We agree and we will ensure that in cases where weight is placed on a registrant's departure, that the documentation reflects the other factors influencing the decision.

3. Central Complaints Bureau (CCB)

Assessment

We agree with the BCSC's assessment.

4. File Prioritization and Backlogs

Assessment

We agree and, of course, the BCSC staff will be kept informed of our performance in relationship to our Key Performance Indicators ("KPIs") by way of the current monthly reports and quarterly meetings.

5. Staffing

Assessment

The BCSC has suggested that we notify the Director of Capital Markets Regulation of any position that has been vacant for more than 60 days and to provide an explanation. We will do so.

6. Sales Compliance Department (SCD) Referrals

Assessment

We agree. The BCSC seems to accept that enough information is available to key people in Sales Compliance and Enforcement to ensure all matters are properly considered. This is our intention. Anyone who needs access to any regulatory document is provided with the information. The only reason for any kind of restrictions is to preserve confidentiality.

7. Investor Complaints and Settlements

Assessment

We agree with the BCSC's assessment.

8. Organizational Structure

Assessment

We agree with the BCSC's assessment.

9. Cooperation and Coordination with other Self Regulator Organizations

Assessment

We agree with BCSC's assessment.

10. Technology – Computer Systems and Databases

We agree that that it is worth exploring opportunities to provide the public with broader access to disciplinary actions through a joint venture with the other SRO's and with the BCSC.

We also are willing to discuss better links with the BCSC's intelligence databases.

11. Processes, Policies and Procedures

Assessment

We will simplify the instructions in our Procedures Manual to indicate that the manager will refer all criminal matters to the police.

File Procedures and Processes – KPIs

BCSC Comment

"Some of the KPIs defeat the intended purpose. For example there is a requirement for Investigations and Prosecutions to send complainants a letter after sixty days (recently extended from forty-five days) to update them. The purpose of the letter is to let complainants know that the file is still under review. The problem is, the letter provides so little information that complainants end up calling the IDA as the appearance of the letter makes them think that something of significance may have occurred."

IDA Response

We strive to keep complainants informed to the extent possible but there are sound legal reasons why we cannot and should not be consulting with a complainant. The intention of the letters is merely to let the complainant know that we are working on the file and that the investigation is active. We do not share your view that the complainant phoning is counter productive. It accomplishes the desired result and in many instances we garner more information or sometimes the determination of critical facts and allows us to continually monitor the willingness of a complainant to testify. This is very important to the IDA, as unlike the Commission, we do not have the ability to compel a witness. We have found that the alternative of not contacting them is that the complainant loses interest, forgets whom to contact and may not be available when we need the complainant as a witness.

BCSC Comment

"Some staff would prefer to call the complainant when they receive the file, and advise complainants that they can call at any time if they have questions. The KPIs should be revised to include the choice of either sending a letter, or making a telephone call to the complainant. The telephone calls should be documented in the file. This seems like a more personal and practical approach. The overall goal of the policies make sense, perhaps the means of achieving them should be more flexible."

IDA Response

Our procedures have already been revised to give staff the choice and to document the contact.

BCSC Comment

"In Investigations, one year to conclude an investigation is reasonable in most cases. One KPI that can be difficult to meet is the requirement to notify all parties involved in an investigation that an investigation has commenced. The KPI requires that a letter be sent within five days. Perhaps ten days or two weeks would be more reasonable as sometimes it is difficult to immediately identify the parties who will be investigated. For example, investigators must determine if the branch manager will be part of the investigation. This can't always be done without investigating the matter first to determine the extent of the branch manager's involvement."

IDA Response

The KPI referred to is an internal, secondary KPI, which we do not report on outside of management. We recently adjusted the KPI from 2 to 5 days in consultation with staff and the KPI is being accomplished. The purpose of the KPI is to establish reasonable targets so that management's expectations are clear to staff.

BCSC Comment

"Another KPI that can be difficult to meet is the CCB KPI requirement to send document requests out to firms within seventy-two hours of receiving a complaint. Sometimes this is just not possible because more information is required from the complainant."

IDA Response

We agree although we do not think changing the KPI is appropriate. Again this is not a KPI that is reported outside of management. We do not expect to meet the KPI 100% of the time and the BCSC has identified one legitimate reason why we may not meet the KPI in a particular case. The objective is to get the investigation moving by having the Complaints officer consider the complaint quickly and at least to start collecting information.

BCSC Comment

"In terms of who monitors KPIs, most staff are not certain who reviews them. Investigation staff thought that IDA staff in Toronto review them but they were not sure. "

IDA Response

We can ensure that staff has a better understanding of who monitors the KPI's. Some KPI's are reported to the Member Regulation Oversight Committee and are reviewed by senior staff in both cities. The more procedural KPI's, many of which have been commented on by the BCSC above, are used more as management tracking tools. Again, they can be monitored by management in any city, but are more closely reviewed from a national perspective.

12. Documentation in Investigation Files

Assessment

We agree that documentation is important and can always be improved upon.

13. Investigative Tools

Assessment

We agree with BCSC'S assessment.

14. Investor Education and Protection

Assessment

We agree with BCSC's assessment.

15. Focus on Losses

Assessment

We agree with BCSC's assessment.

Once again, we appreciate the work of BCSC staff on the Audit.

Yours truly,

Warren H. Funt
Vice President, Western Canada
Member Regulation

WF:sb

September 29, 2003

Warren Funt
Vice President
Member Regulation, Western Canada
Investment Dealers Association of Canada
P.O. Box 11614
Suite #1325, 650 West Georgia Street
Vancouver, BC V6B 4N9

Dear Mr. Funt:

2002 British Columbia Securities Commission Enforcement Audit

Thank you for your letter dated June 27, 2003, and your comments about the British Columbia Securities Commission's (BCSC) 2002 audit of the Investment Dealers Association's (IDA) Enforcement activities. The following summarizes the BCSC's recommendations and expectations as a result of the audit:

1. Given that the IDA has increased its regulatory responsibilities, and that the Enforcement Department is now fully staffed, more enforcement results are expected. We acknowledge that the size and complexity of investigations, as well as joint investigation initiatives, should be considered in evaluating overall results. (*Pages 5 & 6*)

2. Place equal emphasis on both Member Firm and individual conduct during the course of all investigations. (*Page 5*)

3. Ensure that all Central Complaint Bureau (CCB) Complaint Officers and Enforcement Investigators are reviewing files for possible supervision issues related to individuals and firms as per section 8 of the IDA's Investigations Procedures Manual. Supervision issues should be reviewed on a timely basis to ensure that supervision issues are considered concurrently with other file allegations. Files should include documentation that details the extent of the supervision review. (*Page 9*)

4. Identify violation patterns and consider joining investigations where appropriate. (*Page 10*)

5. Ensure that a Registered Representative's (RR) departure from the industry is not the primary reason to close a file. Files should clearly document and explain the investigator's rationale for closing a file that concerns a RR who is no longer in the industry. (*Page 10*)

6. Continue to meet Key Performance Indicators (KPIs) in the CCB. (*Page 16*)

7. Continue to select appropriate files for enforcement action. The focus should continue to be on files that have the most serious violations. (*Page 27*)

8. Ensure that future backlogs in CCB and Investigations do not reappear and eliminate the backlog in Prosecutions. (*Page 27*)

9. Future staffing vacancies that persist beyond sixty days will require a written explanation to the Director of Capital Markets Regulation, detailing reasons why the position cannot be filled. (*Page 32*)

10. Maintain a record of all Sales Compliance Department (SCD) referrals. (*Page 33*)

11. Ensure that IDA staff are clear on the SCD/Enforcement referral process and increase the number of referrals and continue to improve coordination of information flows between the SCD and Enforcement. (*Page 34*)

12. Ensure that the SCD reviews are used as a tool for the early detection of problems in Member Firms. (*Page 34*)

13. Continue to advance the current proposal to revise IDA By-Law 19, which includes the requirement for the IDA to notify Member Firms when an investigation is commenced. (*Page 34*)

14. Develop the Complaints and Reporting Settlement System (COMSET) as a risk management tool. (*Page 36*)

15. Work with other Self Regulatory Organizations (SROs) to implement a consolidated disciplinary database for all SRO actions. (*Page 46*)

16. Update the Investigations Policies and Procedures Manual to include criminal investigations procedures. (*Page 49*)

This concludes the 2002 Enforcement Audit. I would like to thank your staff and yourself for the cooperation provided during the audit.

Yours truly,

Steve Wilson
Executive Director